

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 24, 2021

**HILGERS:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-ninth day of the One Hundred Seventh Legislature, First Session. Our chaplain for today is Senator Geist. Please rise.

**GEIST:** Good morning. I'm going to be reading a prayer today by my son, Derek Geist, who is a youth pastor at Mercy City Church here in Lincoln, and if you would, join me in prayer. Father God, thank you for this body of legislators that you have handpicked, anointed, and appointed for such a time as this. Today, we pray and ask for your wisdom to flood their hearts and minds as they strive to faithfully serve the people of Nebraska. As a body, we pray for unity and spirit. We know that where there is unity, you command your blessing. Lord, we need your blessing. We also acknowledge that unity of spirit does not always look like uniformity of ideas. Give us all patience with one another as we navigate the issues that continue to arise in our world. Let us see-- first see your image when we look at one another and not a difference of opinion. We pray that the remainder of the 2021 session will be honoring to you, led by your spirit, beneficial to our state, and ultimately bringing you the glory you are worthy of. May you-- may your favor be on every person in this body and on the great state of Nebraska. We pray all of this in Jesus' name. Amen.

**HILGERS:** Thank you, Senator Geist. Senator Erdman, you are recognized for the Pledge of Allegiance.

**ERDMAN:** Thank you, Mr. Speaker. I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**HILGERS:** Thank you, Senator Erdman. I call to order the forty-ninth day of the One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

**ASSISTANT CLERK:** There is a quorum present, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Are there any corrections for the Journal?

**ASSISTANT CLERK:** No corrections this morning.

**HILGERS:** Thank you. Are there any messages, reports, or announcements?

**ASSISTANT CLERK:** There are, Mr. President. Your Committee on Enrollment and Review reports LB37, LB100, LB101, LB351, LB401, LB476,

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and LB533 all placed on Final Reading. In addition to that, the Education Committee would like to announce an Executive Session at 9:30 a.m. under the north balcony. That's all I have at this time.

**HILGERS:** Thank you, Mr. Clerk, Turning to the agenda and 2021 committee priority bills. First bill, LB529. Mr. Clerk.

**ASSISTANT CLERK:** LB529, introduced by Senator Walz, is a bill for an act relating to education; to change provisions relating to the distribution of lottery funds used for education; to adopt the Behavioral Intervention Training and Teacher Support Act; to create funds to establish a mental health training grant program; to change provisions relating to standard college admission tests; to adopt the College Credit Testing Fee Reduction Program Act; to define and redefine terms; change provisions relating to innovation grant programs, the use of certain funds relating to the Expanded Learning Opportunity Grant Program; to provide duties for the Auditor of Public Accounts and the Coordinating Commission for Postsecondary Education; to change provisions relating to the Nebraska Opportunity Grant Fund and the Community College Gap Assistance Program Fund; change provisions of the Excellence in Teaching Act; to eliminate obsolete provisions; provide a learning community transition aid [SIC]; to repeal various actions; and to declare an emergency. The bill was introduced on January 19 of this year, referred to the Education Committee. That committee placed the bill on General File with committee amendments attached.

**HILGERS:** Thank you, Mr. Clerk. Senator Walz, you are recognized to open on LB529.

**WALZ:** Good morning and thank you, Mr. President and members of the Legislature. LB529 is the result of the lottery study in the Education Committee that they completed in December 2019 and it incorporates many of the adopted recommendations that were published in its statutorily required five-year report to the Legislature. A copy of that study was provided to you last Thursday. I was Vice Chair of the committee at that time and we worked collaboratively and tirelessly studying the millions of lottery dollars available for education. The original bill we created was LB920 and it was good, but unusual circumstances of last year kept it from getting across the finish line. This year, the clock is ticking.

**HILGERS:** Senator Walz, Senator Walz, excuse me. Colleagues, we've started General File debate this morning. Senator Walz, please proceed.

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**WALZ:** Thank you, Mr. President. This year, the clock is ticking. LB529 used the E&R amendment from last year's bill as its framework, but there are a few tweaks and new provisions. You have on your desk a document with some key information about LB529, including a comparison between the two bills. Let me give you the highlights of what is before us today. The biggest recipient of funding is the Nebraska Opportunity Grant Fund, also known as NOG, which is Nebraska's only need-based financial aid program for postsecondary students. In addition to receiving the majority of the lottery allocation, it receives an annual General Fund appropriation. In 2019-2020, nearly 13,000 students received financial aid from NOG. Without timely action on this bill, the nearly \$11 million lottery allocation for the upcoming year-- school year is in jeopardy, which will create a financial hardship on many Nebraska students and families. Most existing lottery recipients are receiving some level of funding in LB529: 3 percent to the Expanded Learning Opportunity Grant Fund, 4.5 percent to the Community College Gap Assistance Program Fund, 7.5 percent to the Excellence in Teaching Cash Fund, 58 percent to the Nebraska Opportunity Grant Fund, and 3 percent for distance education incentives. In addition, LB529 allocates money to some new recipients: 4.5 percent to the State Department of Leadership Cash Fund, which provides much-needed funding for spec-- specified projects at NDE; 0.5 percent to the State Department of Education Technology Upgrade Cash Fund, which is brand new this year and will initially fund the upgrade and automation of the option enrollment program as a result of an interim study conducted by this committee in 2020; 9.5 percent to the Behavioral Training Cash Fund, which also creates a teacher support system to better help our teachers when problems existing in their classrooms-- when there are problems existing in the classrooms, so you could say it's extending their training to times when they need it most; 1.5 percent to Mental Health Training Cash Fund; 1.5 percent for the Career Connections website, which is currently being paid by NDE with federal dollars that will be expiring soon; 2.5 percent to the Access College Early Scholarship Cash Fund to increase what is available from the General Fund appropriation for dual-credit courses taken by high school students; 2 percent to the Career-Readiness and Dual-Credit Education Cash Fund to provide grants to teachers to meet dual-credit teaching requirements; 1 percent to the College Credit Testing Fee Cash Fund to provide assistance for poverty students for AP testing fees; and 1 percent was allocated in the committee amendment for the new Door to College Scholarship Program. LB529 sunsets the Nebraska Innovative Grant Program in favor of specific and direct funding allocations without the need for competitive grant applications. The 2019 study found that many smaller school districts did not have the staffing or resources to complete grant applications,

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yet alone be competitive in them. The committee, committee amendment does allow innovative grant funds previously awarded to be spent through June 2020, as the pandemic delayed, to fully implement some of these programs. LB529 also allows two provisions of the current state statute to sunset. A requirement that a 10 percent retainer of the education lottery dollars to be held as a cash reserve, which then required that all money funnel through one fund before being transferred to a designated location. Following the sunset of these provisions, left-- the leftover retainer will be transferred to the Behavioral Training Cash Fund to kick-start this very important program. LB529 removes the permissive language from statute that allows education lottery dollars to be used to pay for the standard college admission testing for all 11th grade public school students in Nebraska. I would like to thank Senator Stinner and the Appropriations Committee for including this in their budget. LB529 makes the following adjustments to the Excellence in Teaching Act. It changes the distribution of funds to the Excellence in Teacher-- in Teaching Program to 75 percent for attracting excellence to teaching, those who have bachelor's degrees, and 25 percent to the Enhancing Excellence in Teaching Program, master's degree. This change addresses the current teacher shortage that has worsened as a result of the pandemic. It also allows eligibility for forgivable loans to cover the Praxis exam and \$1,000 to students when they complete their student teaching. LB529 also transfers responsibility for the Excellence in Teaching Program from the NDE to the Coordinating Commission for Postsecondary Education. Related to the Expanded Learning Opportunity Grants effective July 1, 2021, funds available in the-- of the funds available in the program, LB529 specifies that one-third shall be used for existing 21st Century Community Learning Centers and the remaining two-thirds shall be used to support new programs. This change, along with significant increase in funding, replaces what will be lost due to the sunset of the innovative grants. LB529 makes the following adjustments to the Community College Grap-- Gap Assistance Program. It changes the amount of money any community college may use from the fund to defray cost of direct staff support services to 10 percent of any money received from the fund and removes the annual award restriction from the fund during any fiscal year of \$1.5 million. This bill adds new reporting requirements for the education lottery dollar recipients, excluding individuals, to file an annual report to the Auditor's Office, which then will compile the data and report it to the Legislature. There are additional cleanup provisions included in the bill related to the education lottery dollars and the programs they currently or previously have funded. Finally, LB529 requires this committee to submit another report with recommendations on how the allocations of lottery should be used for the five-year period,

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beginning with the fiscal year 2026-2027. That report will be due December 31, 2024. Thank you for your time. Because of the June 30 sunset, it's imperative that we pass this bill now with the emergency clause. I urge you to vote green to advance LB529. Thank you.

**HILGERS:** Thank you for your opening, Senator Walz. As the Clerk noted, there are committee amendments. Senator Walz, as Chair of the Education Committee, you're recognized to open on AM495.

**WALZ:** Thank you, Mr. President and members of the Legislature. This amendment fixes some very important oversights in the lottery bill brought to my attention yesterday by Senator Linehan and Senator Arch. I appreciate them reading the bill closely and noticing where there is a need for more--

\_\_\_\_\_ : Wrong one.

**WALZ:** Oh, sorry. I've got to start over. I apologize. I was, I was moving too fast. I'll start over. As I mentioned in my bill opening in the committee amendment, LB495 [SIC] allocates 1 percent to the Door to College Scholarship Program, which was a change from the bill as introduced. I'm really excited about this scholarship program. It's for students at the YRTCs that graduate from the Associated Education Program or successfully finish their YRTC program during their senior year and graduate, graduate from their home high school. This is a great opportunity to help these kids turn their life around, go to college at least part time, and enter the workforce. The annual max scholarship is \$5,000 for a full-time student and \$2,500 for a part-time student. The amendment adds an additional requirement to the Behavioral Awareness and Intervention Training to ensure teachers understand duties, rights, and responsibilities outlined in the Student Discipline Act and related case law. Currently, that would be the Daily case. As I mentioned earlier, it also extends the time period for the use of previously awarded innovation grants by one year to account for disruptions to the programs by this pandemic. I urge you to vote green on LB495 [SIC]. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Walz for your opening. Mr. Clerk for an amendment.

**ASSISTANT CLERK:** Mr. President, the first amendment to the committee amendment from Senator Walz is AM677. Senator, I have a note that you wish to withdraw that and substitute FA10.

**HILGERS:** Without objection, so ordered. Senator Walz, you're recognized to open on FA10.

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**WALZ:** Thank you. Thank you, Mr. President and members of the Legislature. This amendment fixes some very important oversights in the lottery bill brought to my attention yesterday by Senators Linehan and Senators Arch-- and Senator Arch. I appreciate them reading the bill closely and noticing where there is a need for more intentional language. The first change in the amendment strikes schizophrenia and bipolar disorder as conditions for which mental health training is required to train school personnel to recognize the signs and symptoms of, but keeps major clinical depression and anxiety disorders in the bill. The second change in the amendment changes "behavioral health care" to "behavioral intervention," which I believe is a more appropriate language. I believe this amendment fixes both of their concerns, but I would like to open this up for discussion to ensure that we have the absolute right language in the mental health training grant program. This program is very important to our schools, it's very important to our kids, and it's very important to our families, so we need to make sure that we get it right. Thank you for your time and I urge you to green-- to vote green on-- to adopt the amendment.

**HILGERS:** Thank you for your opening, Senator Walz. Debate is now open on FA10. Senator Vargas, you're recognized.

**VARGAS:** Thank you very much, President-- Speaker. Colleagues, I wanted to rise not specific on the floor amendment right now. I actually wanted to rise specifically on the underlying bill for education lottery funds. Now there are a couple of programs in here that I wanted to highlight because they are personal and important. We've worked on them within Appropriations. So for those of you that don't know-- I think we heard it from Senator Walz-- there is a-- the lottery allocations for education fund many different important things for our state. One of the two that come to mind and the one, one I really want to talk to is our ACE, but specifically our Nebraska Opportunity Grants program. Now, the reason this is important is when we talk about college affordability, when we talk about trying to make sure our workforce is in a place that we can meet our needs across our state, we look at need-based grants. We are not where we need to be as a state for need-based aid to low-income students. Over the last five years, we've been somewhere in the bottom quartile, bottom third of states for need-based aid. Now luckily, we've been trying to work on that, but it's programs like Nebraska Opportunity Grants program that are trying to bridge that divide for our lowest-income students across our state. And here's the reason why this is probably more important to me than others. I went to school in another state, in New York, and in that, the equivalent of the NOG program there is one of the reasons that I was able to afford to go to higher education, to go to college.

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The \$2,000, \$3,000 that was provided to me helped offset costs and made it easier for me to go and be one of the first in my family tree to go to college. It enabled me to become a teacher, it enabled me to work in education as a policy consultant, and it's what enabled me also to-- fundamentally, to really be here. Now unfortunately, the Nebraska Opportunity Grant program, every single year, we do not meet the needs. We only meet about 60 to 70 percent of the need of those that are eligible across the state. And to be eligible, you have to be a low-income individual pursuing higher education at any of our postsecondary institutions, private or public, and we can only meet about 60, 65 percent of that current need. Now, I'm very thankful to the Appropriations Committee and Chairman Stinner. Over the last three, four years, we've actually made it so we've increased it from 50, 55 to 60 percent by adding additional funds and working through this lottery fund distribution so that more students can afford to go to a higher education, both public and private institutions. Had it not been for those increases, we would not see more and more students across our state being able to go to our Nebraska state-- Nebraska colleges and universities. It's critical because right now, I can tell you there are somewhere between 40,000 to 50,000 individuals across our state that don't even have a high school diploma and that are trying to pursue a higher education. We need to make sure that individuals that do have these high school diplomas can afford higher education in any way, shape, or form. And if we can't do that, we are completely missing out on the workforce issues that we talk about every single session. We invest in tax incentives, which I understand. We're investing in businesses, employers, so we have better jobs. We've been investing in creating jobs that have higher wages and higher benefits. Great, but if the individuals cannot be developed and trained and have the degrees and the skill and expertise to be able to be in these positions--

**HILGERS:** One minute.

**VARGAS:** --and be in these H3 jobs, we are at a huge disadvantage. And it's programs like Nebraska Opportunity Grants Program and other-- and other states are leading the way in need-based aid. We need to be a leader in this space. Now, LB529 is reallocating some of this to make sure that we're doing a better job, but I think ultimately we need to do more to support these need-based aid programs because it's not an urban and rural issue. This is a Nebraska issue. If people can't afford to go to higher education in our state and has to take out costly loans and costly, costly loans that are going to be impeding them for the rest of their life when we can offset that cost now so they can go to a trade school, they can go to community college, they

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can go to state college, they can go to Peru State, they can go to University of Nebraska-Kearney, they can go to Concordia, but every single year--

**HILGERS:** Time, Senator.

**VARGAS:** --there's a-- thank you very much.

**HILGERS:** Thank you, Senator Vargas. We have a number of senators in the queue, including Senator Kolterman, Senator Machaela Cavanaugh, Senator Lathrop, and others. Senator Kolterman, you are recognized.

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. I rise in support of LB529 and, and the amendments that follow. I just wanted to talk a little bit about how important this bill is to me. I've, I've lived in a community and in my district, I've got three postsecondary education facilities. I've got the Southeast Nebraska Community College down in Milford, which I'm a graduate of, I've got Concordia University, and I've got York College. All three of those are areas that benefit from NOG. I felt this was an important bill so much that I even brought my own bill, LB62, which is somewhat of a duplicate of this bill. It deals with all the higher education learning in the state. The important thing to me is this bill goes a long way to helping 13,000 students in our state that are of the lower income and it, and it helps them through their financial aid packages, which is important. As we start to look at keeping people in our state and recruiting people into our state, we need to have all, all aspects being represented and, and if you can't afford a college degree, this is one way that we can help those students. As you've, as you've seen in the brochure in front of you, it was set to sunset this year and I felt it was important to have my own bill. I brought that at the request of some independent colleges as well as the University of Nebraska. But in the meantime, LB529 came along and it's, it's a much broader bill, so we allowed that. I just took a second seat to that. I think it's important-- one part of this bill that people don't talk about a lot is the community colleges. There are six of those in the state of Nebraska. Out of those, 13,378 people are, are, are eligible-- there's 13,708 eligible students. Of those, 3,784 received Pell Grants or, or NOG assistance this past year. But more importantly, something we never think about is the high school students. There was 2,473 Nebraska high school students that received an ACE scholarship to pay for dual-credit courses. Now, what that says to me is-- I'll give you an example of how that works in the real world. My nephew goes to school. He happens to live in Monroe, Louisiana, and he's a senior in high school. In Louisiana, he gets the same opportunities provided by this state and he's taken a lot of dual



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credits. When he graduates from high school, he will have an associate degree to take on with him to the, to the university that he chooses to go to. That's the, that's the opportunity that this bill will bring. Students that want to take classes online or through career academies will have the opportunity and if they can't afford to pay for it, we'll help them with that. It's a, it's a huge benefit to the lower-income people in our state. I think it's important that we help them any way we can. An educated workforce is what we're looking for, whether it's in the trades or whether it's in, in, in higher education like engineering or architecture or, or attorneys or whatever-- business, whatever it might be. We need all aspects of the workforce to be highly educated today. So I would encourage people to get on board with LB529, AM495, and FA10 and let's move this bill forward and not let it sunset. And, and again, I'd like to thank Senator--

**HILGERS:** One minute.

**KOLTERMAN:** --Stinner and Appropriations for putting the, putting the money and the resources into this and the lottery funds. I'm glad that we as a state decided to use our lottery funds in the past to help educate these underprivileged students. Thank you very much.

**HILGERS:** Thank you, Senator Kolterman. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Good morning, colleagues. I rise in support of LB529 and AM495. I am very excited about this amendment. This is a great program that Senator Walz has come up with for our youth that are at the YRTCs. It's really impressive and amazing that we can do something to help those youth once they are able to leave the YRTC system to further their education beyond high school. I think this is an amazing opportunity for reinvestment in, in that youth and showing them that we as a state value them and value their education and value their future. And so I'm just very excited that Senator Walz was able to put this together and I'm really encouraging everyone to vote green for AM495. As many of you know, the YRT-- the youth rehabilitation treatment centers have been through a little bit of a rocky time, to say the least, over the past year and a half. And this, this type of reinvestment in that youth, I think, is coming at a really critical time for them to know that their Nebraska Legislature cares about them and cares about investing in their future beyond their time at, at the rehabilitation centers and so I'm, I'm just very grateful to Senator Walz for bringing this amendment and for showing that youth how important they are. I also am very supportive of making sure that our lottery funds continue to go to education. This is a great use of those funds and I think oftentimes people don't actually know that

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that's what our lottery funds are used for. Every day when I drive home from here, I pass the big billboard that has the lottery amount and I just think that it's a great thing that that is reflective of money that's going back into our community and going into our schools. And it's great to see that this allocation of funds is-- I mean, without it, we have-- we'll be missing out on tens of millions of dollars for our, our schools and so this is a great bill and a great opportunity. And the FA10 seeking to continue to strengthen behavioral health needs, mental health needs of our youth is another important component of all of this. And I'm just looking at the financial breakdown that was passed out to us today of the lottery funds. It's estimated to be \$100 million over the next five years, so this is really an important and critical piece of our funding of schools and funding of education and I hope that everyone in here will vote for the FA10, AM495, and LB529 so that we can make sure that we are securing the future funding-- the future for our children in this state. I'm grateful to the Education Committee for moving this forward. I'm grateful to Senator Walz for bringing this bill. I know that we weren't able to get this done last year and it needs to be done this year for June 2021 enacting otherwise we have no designation for those funds, so it is really critical. This bill is really critical--

**HILGERS:** One minute.

**M. CAVANAUGH:** --to the funding of education in Nebraska and I, I surely hope that everyone in this body will take that seriously and vote for this bill and these two amendments to move this forward for the children of Nebraska, for the children at the youth rehabilitation treatment centers, and for our future as a state. This shows that we care about education and that we're willing to invest in it. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President. Colleagues, good morning. I am in full support of LB529 and I wanted to-- I see the bill establishes a mental health training grant program and I wanted to visit about that for a moment, about what I believe to be the importance of that provision and that addition to the use of these lottery funds. When I was running for office this last time, I had an opportunity to meet with a number of teachers who were teaching the Ralston Public Schools and it was shortly after there had been a mass shooting and I asked the teachers, what do you need mostly that you don't feel like you're getting in your schools? And two a person-- and I was meeting with

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about eight different teachers-- two a person, they talked about mental health, talked about mental healthcare. The children in many of the school districts are living lives that are vastly different than those you may have lived as you grew up. You may not even know people who live in the circumstances or face the adult challenges children face today that weren't present certainly when I grew up, when most, most families had two, two-parent families. These children in many cases are being raised by a single parent. They live in poverty. They are experiencing trauma and that trauma translates. And the reason this is so important to me is the work we do in Judiciary Committee on Corrections. We see that those kids who experience trauma and are around trauma during their childhood are the very ones who end up ultimately in our county jails and in our state prison system. Training teachers to be conversant with and able to recognize kids that are having issues, what to do with the kids that are having issues is really important. I only wish there was more money in here to hire the counselors and put them in the schools, more of them because frankly, colleagues, this is a big deal. And I know even in my experience in the time that I've been here-- or back in 2007 to the present, you see that school districts are being asked to do more and more and more things that they never-- that were far outside of the, the job description of educating our children. Some of that involves making sure they've been fed. Now, now it involves matters of health and more particularly, matters of mental health. This is an important investment. I see that the bill makes sure that these-- the training includes directing families to the resources they need in order to get the mental healthcare that they need. So, so critical, so critical. We need to keep our eye on that issue. I-- you know, I was in isolation for the last few, few days and I did have an opportunity to watch the debate on the floor and Senator McKinney made a great point yesterday. Senator McKinney made a great point yesterday. We need to make the investment at the front end and go to-- if you look at the Department of Corrections, if you look at your county jail, who's there and what can we do to change the course of that person's life so that they never go down that road, we don't find them in the county jails, we don't find them in the prison systems? I can tell you in Douglas County-- and in Douglas County, the Department of Corrections is the largest mental health facility in the county and our Department of Corrections is the largest mental health facility in the state. Let me say that again.

**HILGERS:** One minute.

**LATHROP:** Our Department of Corrections is the largest mental health facility in the state and it is important that we start to look at the

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population. What were the needs that they, that they did not have met when they were younger that now we find them in the Department of Corrections, either in your local county or in the State Department of Corrections? So I am in full support of LB529. I appreciate the addition of this piece for mental health training and with that, I would encourage your support of LB529, the committee amendment, and Senator Walz's FA10. Thank you.

**HILGERS:** Thank you, Senator Lathrop. Senator Pansing Brooks, you are recognized.

**PANSING BROOKS:** Good morning, colleagues. Good morning, Nebraska. I stand in support of, of LB529 and also AM495 and FA10. I wanted to talk just a little bit about NOG, the Nebraska Opportunity Grant, and remind people about the importance of that grant. The Nebraska Opportunity Grant provides financial aid to students who are residents of Nebraska, have not earned a bachelor's, graduate, or professional degree, have a high financial need, and who are attending eligible Nebraska colleges and universities to earn a degree or credential. NOG is the state of Nebraska's only need-based financial aid program for postsecondary students. It is our only, our only need-based financial aid program for Nebraska students. So in 2019-2020, NOG awarded \$18,740,356. Over eight-- almost \$19 million were awarded to almost 13,000 Nebraska students. That's a lot of help. That is a lot of money that is going to help our kids in Nebraska. NOG-- the Nebraska Opportunity Grant is primarily funded through the distribution of lottery funds. That is why NOG accounted for 58 percent of funding distribution in LB529. It is a very important part of the lottery fund distribution. It's, it's critical in my mind to make college education more accessible and more affordable to Nebraska students in need. The money the state doesn't have to spend from the General Fund to help out students is bolstered by NOG. And whatever you think about the lottery and gambling and all that, at least a good portion of that money goes to something important, helping our Nebraska kids thrive. It supports workforce development. The number one issue for the chambers across the state is workforce development, so it is very important that we do not let this, this bill sunset. The participating institutions include state colleges, community colleges, the University of Nebraska, private and independent institutions including Creighton, Nebraska Wesleyan, Hastings College, and Doane, among others. This is an important fund that goes to the students. That dist-- the lottery fund allocations are set to sunset on June 30, 2021, but LB529 continues this important funding, important funding for our Nebraska students to be able to go to school, become certified, be--and able to get a profession, and move forward and work

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in our state. NOG also receives an annual General Fund appropriation, but think how much more would be necessary to help the poor kids, the Pell Grant eligible kids if we didn't receive those lottery dollars. There is strong support from all of our postsecondary educational institutions for reauthorizing NOG through--

**HILGERS:** One minute.

**PANSING BROOKS:** --LB529. I think it would be a huge mistake to let that go and try to start all over. Can you imagine the work if we have to start all of this over? We have got to work to protect this important grant system that, that protects our young people, that helps our businesses to gain educated and, and skilled workers. This is critical to-- one of the most critical bills coming up this year. So with that, I hope that we will all support this bill coming out of Education and I thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Pansing Brooks. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraskans. I rise in support of LB529, AM495, and FA10. I want to thank the Education Committee for the hard work they did on this bill. It's not just hard work because all of us work hard, but it was really, really thoughtful work. I know that they were here many late nights figuring out which bills to put into this package and it's really encouraging to see a package that includes so many practical things that students really need today. Our nation is in the midst of a mental health crisis and I think it's something that's been worsening over my lifetime certainly, from the time that I was a young girl in school. And when you look at the things that kids deal with now in school, it's very different from the kinds of stresses and pressures that, that I had growing up, even though, you know, it was a stressful time to go to school then as well. I remember when I was 13 is when the Columbine shooting happened and I feel like after that kind of watershed moment in history, the mood at school really changed for us forever. And now I have a fifth-grader, I have a ten-year-old who I'm-- you know, I'm a single parent to her and she's at home doing remote learning every day, but they have the lockdown drills, they have the active shooter drills, and to her, it's the most normal thing in the world. And the mental health toll that the kind of society we live in today can take on these kids, the pressures that they're under, the, the stress in society that is put upon them that they don't deserve or, you know, haven't asked for, we know that investing in mental health in our schools is one way to make sure that our kids get the educational experience that they deserve and that we promise

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to them in this nation. And, of course, in Nebraska, we have an opportunity here to contribute to that progress by passing LB529. What I like about this bill is that it invests in teachers as well. Teachers are the ones who are really on the front line of this mental health crisis, but a lot of times they're stretched really thin too. I mean, so many teachers reach out to me and they tell me that they're at their breaking point and especially after this past year. They often lack the knowledge and skills that it takes to identify and help students who are suffering. AM495 contains LB568, which was sponsored by Senator Morfeld, and what this bill does that I'm really supportive of is it gives teachers the opportunity to be trained in youth mental health first aid. Mental health first aid enables teachers and, and, you know, relevant staff members at the school to be trained in how to recognize the signs and symptoms of mental illness, substance abuse disorders, opioids and alcohol, and it connects them with local resources that are in the communities that are closest to the kids that they serve to help kids who may be experiencing a mental health challenge or a substance abuse disorder. It also helps teachers understand how to safely de-escalate crisis situations that involve students with mental illness. And, you know, this is a perennial issue that, that we hear a lot. It's not just how are we going to support the students who are facing stress and mental health crises, but how are we going to support the educators who are (a) responsible for these kids and (b) under--

**HILGERS:** One minute.

**HUNT:** --just as much stress and pressure that the kids are? We're asking more of our educators than we've ever asked of them before, especially in this past year. So what this bill does is it actually allocates resources to get those teachers the training so that they can advocate better for their students, de-escalate stressful situations in the classroom, and make sure the kids are being able to get the education that we've promised them in the state of Nebraska. This bill also establishes an innovative grant program that includes mental health first aid, along with early literacy, quality educational materials, personalized learning through digital education, and other innovation ideas that are identified by the board. Nebraska already has a robust mental health first aid training infrastructure with over 9,000 trade first aid people in our state who are instructors in our educational system. This--

**HILGERS:** Time, Senator.

**HUNT:** Thank you.

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**HILGERS:** Thank you, Senator Hunt. Senator McCollister, you're recognized.

**McCOLLISTER:** Good morning. Good morning, Mr. President and colleagues. This-- I support LB529. I support AM455 [SIC] and FA10 by Senator Walz. Would Senator Walz yield to a few questions?

**HILGERS:** Senator Walz, would you yield?

**WALZ:** Yes.

**McCOLLISTER:** How much money is generated by the sales of lottery tickets in Nebraska, if you know?

**WALZ:** Yeah, for the fourth quarter of 2020, \$10,464,425 for all Nebraska Lottery Fund beneficiaries.

**McCOLLISTER:** And the educational programs account for what percentage of the-- of that amount?

**WALZ:** About 44 percent.

**McCOLLISTER:** 44 or is it 41?

**WALZ:** 44.57.

**McCOLLISTER:** I understand and where does the balance of that-- the lottery fund receipts go?

**WALZ:** One percent goes to the compulsive gamblers and 44.5 percent to the Nebraska Environmental Trust and then also we have 10 percent that goes to the Nebraska State Fair.

**McCOLLISTER:** Yeah. How did the committee decide the division of the funds going for educational purposes?

**WALZ:** In 2019, there was a lottery study done and that happens every five years to reallocate funds or--

**McCOLLISTER:** Is, is that in statute that they decide every five years where the money goes?

**WALZ:** Yeah, yes.

**McCOLLISTER:** Thank you.

**WALZ:** Yeah.

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**McCOLLISTER:** I support the bill because metro colleges do so many good things in Nebraska. Metro Tech in Omaha does trade-- works on trades and not everybody that goes to college ends up finishing college and Metro Tech does a wonderful job teaching skills like plumbing, construction, and other trades and I, I support that. I support the 44 percent that, that goes to educational purposes in Nebraska. I support the bill and I hope you'll give a green vote on the program. Thank you.

**HILGERS:** Thank you, Senator Walz and Senator McCollister. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. Speaker. Mr. President is the proper term. I support FA10 and AM495 and I appreciate the Education Committee continuing the work that we did when I was on it for the last six years building to this point on the lottery funding. And if-- Senator Morfeld knows-- his part about mental health, him and I worked on that together and put it in there last year. It's nothing new, but we will have an amendment later that makes this thing-- all the pieces fit together. But AM495 and FA10, they improve the lottery funds, which we put together the last two years. Some minor changes, but the meat of the bill, the money is going where we directed it last year. But we need to improve-- put that final piece in there on the training. The training says you will train for intervention, but we didn't give no protections to the teacher when they do the right thing. That needs to be covered and it needs to be part of this bill. There will be an amendment coming from Senator Murman, I appreciate his hard work, to tie this thing all together so the teachers are protected, children are protected. They're well trained. Administration knows what they should be doing, directed by the people of Nebraska. Everybody knows over the last two years the massive support we had statewide for protecting teachers and children in the classroom. You may be getting some emails from some misguided parents who have been misled by their lobby on special education. We need to protect those kids. We need to protect kids of color. We need to treat all children the same in a classroom. This bill doesn't cover that. FA10, I appreciate Senator Arch's and Linehan's late nights and whenever they have time to read all these bills and bringing that forward. Teachers are not mental health experts and should not be diagnosing specific mental illnesses and they caught that. And AM495 is-- it's bearable, but at the end of the day, unless we make a complete package of LB529, I can't support it. People of Nebraska can't support it. The whole genesis of all of this came from the outpouring from teachers and parents about the situations in our classrooms, the whole genesis, and I took that after many studies, talking to a lot of people. Senator Murman and I added



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training last year and then I added the funding with the lottery money, but you cut the head off the effort if you do not define to the education establishment how we expect them to take that training into the classroom and to protect them when they do the right thing. It's common sense, folks. We all know that and I hope-

**HILGERS:** One minute.

**GROENE:** --that there isn't any games played, that we are professionals here. We vote on these amendments and we bring the next amendments up and we do not play delay games because nobody wants to do a filibuster here. We just want to make good legislation, very good legislation by completing the puzzle. Thank you.

**HILGERS:** Thank you, Senator Groene. Senator Linehan, you're recognized.

**LINEHAN:** Good morning, Mr. Speaker, and good morning, colleagues. I first want to thank Chairman Walz for all the work she's done on this bill and she's done a lot of work on this bill. And I also want to thank her for the FA10 and I-- as we all know, we're all been very busy and it's on me that I didn't see some of this language until this last weekend. I also want to address the mental health and I do appreciate the Senator Walz in the bill-- and maybe it was in there before-- tried to separate out behavioral health versus mental health. I have been asking questions about that for-- I think since I've been here. I do know that we have-- I've talked to enough teachers, administrators, school board members that behavioral health is a severe problem for many schools today and handling kids who, as Senator Lathrop said, are in very, very tough circumstances, so I appreciate our focus on that. I also hope that as we move forward on this issue-- and I appreciate Senator Arch's input on this-- that we work with the providers for mental health, children with serious mental illness. There are, to my knowledge, two providers in Nebraska that work with these kids on an inpatient basis and it is CHI and Boys Town. There is also-- I know Children's does a lot of work with schools-- well, at least one school. I shouldn't say a lot of schools-- but it's a program I think we could expand where telehealth becomes an option for many of these families and students and the schools where they can be in school and with parents' permission and input, actually take advantage of telehealth services from these providers. But I do think there needs to be more collaboration. I think that Senator Day and I had a meeting with a representative from Children's and I think there's that-- there's the desire on their part to do that. I know one thing that also got in this bill that's very important to the providers and very important to our family and

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children's schools is on line-- page 9-- is-- and I thank Senator Walz and I have been trying to get this in the bills for two and a half years now-- each school district shall designate one or more school employees as a behavioral, behavioral awareness point of contact for each school building. So when a child leaves inpatient care or their provider's, if they're concerned, they know who in that building they can contact. That's been an issue and Senator Walz has worked on that for quite some time. I also want to echo the importance of the NOG program. It is critically important and we do not want to leave those kids hanging. I do want to get this bill done. I also have a question-- and I think I gave her a heads up. I hope I did-- if Chairman Walz-- Chairwoman Walz would yield for a question?

**HILGERS:** Senator Walz, would you yield?

**WALZ:** Yes.

**LINEHAN:** Senator Walz, on the programs that are, that are focused on high school juniors and seniors, so they can take dual credit, they can take AP classes, they can take college credit, and for the-- I know we've got some issues we're trying to work out. We can't use free and reduced lunch anymore. We're in the process-- trying to work that out, but do those students-- can they be in any school in Nebraska-- high school, public or private?

**WALZ:** Yes, they can. As a matter of fact, my, my kids were able to take classes through that program, so absolutely.

**LINEHAN:** So it's, it's-- the money goes to the student--

**HILGERS:** One minute.

**LINEHAN:** --so they can take advantage of college courses?

**WALZ:** Yes.

**LINEHAN:** And then I think there's some confusion just-- I had to read it a couple of times. On the Testing Fee Cash Fund, that's for students who manage to take AP class and then they get-- they can take the test so they can get the college credit, right?

**WALZ:** Yes, yep.

**LINEHAN:** Thank you, Senator Walz. On the other big discussion this morning, Senator Walz's committee priority bill versus Senator Murman's amendment, I want there to be a compromise here and I want everybody to work together to get to a compromise. I don't-- I've been

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involved in this discussion now for two years and I don't think the sides are as far apart as maybe they think they are. So I'm hopeful as we work through this today that we can find a way to move everybody forward and everybody-- like we do on all big compromises, everybody doesn't get everything they want, but everybody gets something, so thank you.

**HILGERS:** Thank you, Senator Walz, Senator Linehan. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. Speaker, and I rise in support of LB529, AM495, and FA10 and I appreciate all the hard work, as everybody has mentioned here today, of the Education Committee, past and present, and of the senators who recognized issues and brought them forward. Obviously, I think that our task here is to look at legislation-- to bring forward good legislation, but then as a, as a body, to work together to improve that. So I like to see that, that amendment that Senator Walz brought to improve what I think is already good legislation. When you run for office, everybody asks you what's the number one thing people talk about and-- or people ask you about? And in my campaign, it was access to mental health and behavioral health services and that got brought up in a lot of contexts. I was a public defender for seven years and so the conversation centered in-- for me around our criminal justice system. And as Senator Lathrop accurately stated, our biggest mental health provider in Douglas County is the Department of Corrections. And the conversation that I would have with a lot of people centered on how did we get to this point and how do we address our, our problems in our criminal justice system of too many people going into the system, too many people being stuck there and, and coming back? And ultimately, one of the best ways we can address our prison overcrowding, one of the best ways we can address our crime problem is access to mental health services and so I particularly appreciate Senator Morfeld's portion of this bill with-- that will help teachers identify issues earlier. Early intervention leads to better results, better long-term outcomes for people. The number of people who find themselves in the criminal justice system didn't get any access to mental healthcare until they got into the criminal justice system, until they were in Douglas County Corrections and they, they got an evaluation as a result of part of the, the criminal proceeding that they were involved in. And so those were people who this-- our system failed because they had issues that went unidentified and they became incarcerated and they became a problem for our society that we need to address. And so I appreciate that we are forward looking, we're trying to intervene to help people solve these long-term problems by spending some of this money up front to

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help identify issues, help connect people with resources, and help people get access to services. So that's one of the reasons I'm in support of this bill as amended and that's one of the reasons I appreciate the hard work. I also-- I think that the funds here, as everyone has pointed out, for the, the opportunity scholarships going forward are extremely important. They-- education funding and access to education at all levels touches every aspect of our, our society. It has to do with job opportunity. It has to do with quality of life. It has to do with our criminal justice system. And so when we're talking about all of the big problems of our state, whether we can attract employers, whether we can attract families, whether we can build an economy here that is going to be successful in the future, these are the types of things we need to be thinking about investing in and I appreciate that-- my, my only issue with this is that I wish we had more money to put into some of these programs. And so I, I appreciate the hard work that the committee has done to parse out into these particular sections addressing these, these concerns. I think--

**HILGERS:** One minute.

**J. CAVANAUGH:** Thank you, Mr. Speaker. So I would ask for your vote-- green vote on FA10, on AM495 and LB529 and I-- again, I appreciate the work of the committee and thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. Speaker. I rise in support of FA11 [SIC], AM495, and the underlying bill, LB529. Fellow senators, friends all, education is our paramount duty as policymakers and I believe it is the most important thing that we can do for Nebraska's economy. I support this bill and the amendments because I support a Nebraska where every child has equitable access to opportunities regardless, regardless of income. Progressive revenues such as lottery funds allows us to make sure we honor our responsibility under Nebraska's Constitution. I agree with Senator Vargas that we must make ample provisions, ample provisions for the education of all of Nebraska's children without distinction or preference on account of race, color, caste, or sex, but Nebraska's education system is also about our teachers. The development of a teacher support system is so important because it helps to create a culture where teachers feel that they are supported not only by each other, but also by the school district. It is so valuable when we help our teachers work through difficult times and shore up a foundation that can help our teachers over those hurdles, the hurdles that often cause these individuals to leave their profession. Slowing down that revolving door benefits not only our

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students, but our school districts as well because Nebraska does have a high rate of teachers that leave the profession, profession for a long list of reasons. Now, I agree with what Senator Groene said earlier that he wants to move forward good legislation and what I see up on the board right now is great legislation. So I feel like we should get busy and vote these amendments in and move LB529 forward without any games. I totally agree with Senator Groene on that point. Now, unfortunately, it sounds like there's other things that are in the works and I don't know what those things are necessarily, but I don't understand the desire to take good bills that need to get passed for the betterment of our children, for the betterment of our educate-- our educators, for the betterment of taxpayers, I don't understand why we're trying to slow this down, especially with a potential amendment that I know we're eventually going to be talking about that I'm not even aware of or got out of committee. So I'm not sure why we have hearings if we keep ignoring the purpose of hearings, but I think that's an issue we can discuss should that amendment come up on the board. But meanwhile, I applaud the Education Committee. I applaud all the organizations involved with this excellent legislation. Nebraskans would be proud if they went through this bill and saw how many people we are going to be helping. From the educators to our students to technology--

**HILGERS:** One minute.

**BLOOD:** --it's all for the greater good of our children here in Nebraska because really the true tool to effective economic development is educating our youth. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Blood. Senator Morfeld, you're recognized.

**MORFELD:** Thank you, Mr. Speaker. Colleagues, given that FA10 deals with my portion of the, of the lottery funds, I want to speak to it a little bit. First off, I just want to thank Senator Linehan for talking to me and giving me a-- lots of heads up on this and I, I just want to say that I see their perspective. I see Senator Linehan's perspective. Senator Linehan's perspective is that we should strike schizophrenia and bipolar disorder because those are things are one, really tough to identify, even trained medical professionals, and then two, those are things that, quite frankly, are lifelong kind of genetic issues in many cases. And the purpose of the mental health first aid is really to identify-- give teachers the tools and skills to identify some of these things early, not to diagnose, but just to identify and then forward on students that are maybe exhibiting issues or things like that to licensed medical professionals. And so I, I understand where Senator Linehan is coming from on this and, and I

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don't see it as an unfriendly amendment after talking to her. It maintains the purpose of the mental health first aid program and getting teachers the training and tools necessary just to identify certain issues at an early age so that they can then be forwarded on and referred to the appropriate medical official so that they can make an actual diagnosis and, and work with them. So I just wanted the body to know Senator Linehan and I have talked. I do not see FA10 as an unfriendly amendment to my portion of the lottery funds and I would appreciate your green light vote on that. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Morfeld. Senator Linehan, you're recognized.

**LINEHAN:** I was-- I'm sorry. That came up quicker-- thank you, Mr. Speaker. Is Senator-- Chairwoman Walz-- there she is.

**HILGERS:** Senator Walz, would you yield?

**WALZ:** Yes.

**LINEHAN:** So I think this is-- I just-- I want to get this on the record, not because I think we need to do anything about it, but I think it's interesting and I want to make sure everybody else sees it. On several parts of the bill, when we start the new programs, it goes on to say not only are we providing funds through the lottery funds, but also as a Legislature, any money appropriated by the Legislature. So I-- is that the way that's it's always been on the lottery funds, that we start the programs and then if the Legislature wants to, they can appropriate more, more money to these programs?

**WALZ:** Yes.

**LINEHAN:** OK, OK. I just think it's important that we all understand that, that we-- and I-- I'm not saying it's good or bad, but it, it means that once we pass something, if that language is in there, as appropriated, as appropriated by the Legislature, the door is open for more money to go. Thank you, Senator Walz. That's all.

**HILGERS:** Thank you, Senator Walz and Senator Linehan. Senator Arch, you're recognized.

**ARCH:** Thank you, Mr. Speaker. First of all, I want to thank Senator Walz, Chairperson Walz, for responding to our conversation yesterday and I appreciate that very much. I have-- I just have a-- three other comments I'd like to make about this bill. First of all, I support the bill. I, I, I'm, I'm pleased to see we need to do something with these

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lottery funds and, and this is a plan to do that. There is-- there are references within the bill to both mental health and behavioral health and that's kind of what I'm focusing on right now is, is the, the mental health portion. For instance, on page 11, line 7-- and this is, this is what this floor amendment is going to, is going to alter-- "recognize the signs and symptoms of mental illness, including, but not limited to, schizophrenia, bipolar disorder, major clinical depression and anxiety disorders." And I realize that that is a, that's a training to recognize symptoms. It's not a training to diagnose because that would take certainly more training than that, but rather to, to recognize these signs and symptoms. My, my point is that we've made a division between behavioral and mental and we have now two training programs, as I read this bill, for those two issues. And I, I guess I would like to have a conversation between now and Select on this bill as to whether or not-- and Senator Walz had-- and I had this conversation off the mike before I stand here to make it, but to, to see whether or not we should be combining that training because what, what I believe that the mental health professionals have found is that oftentimes when you have underlying depression or underlying anxiety, you will see behavior manifested as a result. So if you are not treating the depression and the anxiety, you cannot simply address the behavior as standalone. So I guess with that, I, I, I would appreciate that conversation and I, and I think that she's willing to have that conversation and thank you for that. The, the only other, the only other comment-- well, I guess a couple of other comments-- one, one has to do with on page 9, line 22, page 10, line 10, it refers to-- I-- use of resources and this is something that-- just kind of my pet peeve, but every time I sit down with groups, they say we ought to create a resource directory. We ought to get a resource directory set up so that we can know who to refer to and know what the resources are out there and, and I will tell you that the Nebraska helpline, which is a DHHS-funded program, has a deep resource directory developed and so we don't have to go out and create. So my only point is in this language here, we talk about either develop or utilize an existing-- I would, I would encourage-- if we don't strike the language develop, please, please-- to the, to the school districts and all that, to go out and develop your own resource directory is, is very time intensive, very, very, very time intensive and it's already existing. So I would encourage the use of existing resources and not going out and creating a brand new one. And the last point that I would make is really page 11, which is (c), and it's timely referring a student to available mental health services. I don't see any language in there about parental notification and I would appreciate some language in there on that issue. If you're going to refer a child and you-- and there is-- the teacher has, has, has noticed signs and

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symptoms of anxiety or depression, I would expect that parental notification would be given before simply referring for mental health services and so those are the points, those are the points that I would like to make. With that, I do support LB529 and thank you very much, Mr. Speaker.

**HILGERS:** Thank you, Senator Arch. Senator Pahls, you're recognized.

**PAHLS:** Thank you, Mr. President. I'm just going to give some of my experiences. As a school administrator, let's say a teacher would come to me with an issue and she's very concerned about what's happening with this child in class. It could be academic, it could be emotional, etcetera, etcetera. Well, this is how that would play out. We would discuss a little bit-- she and I or he and I would discuss it, then we would involve or develop an independent education plan, individual education plan. And in that plan, we would include the parent, the teacher, a counselor, a psychologist, various people in that plan and we would look at that and we would try to find the answer within that group. And some of it may be advising the parent to-- outside and see if we could get some additional help. But in that plan, maybe-- I was fortunate, the school system I worked with, but we had access to a counselor, a school psychologist. We didn't do this on our-- one teacher or one administrator did not comprise this plan. It was a number of people. This is not unique. This has been going on for years because there are individuals we know in our classrooms who do need some help in this issue. A lot of times you say, oh, it's a behavioral problem. Well, then you have to get beyond that and see how in depth-- what are the issues behind that problem? I think there are things going on right now within the schools that many of us in here do not know because we haven't been in a school, probably a number of us, for years and including myself. These teachers are under a lot of stress because of what they're dealing with because the students are coming to the schools with outside issues that do not generate within the school, but outside the school. So that's what a teacher and as an administrator-- I include myself in that-- that's what we're up against. The training to help an individual teacher, you cannot say this shouldn't happen. I should say you probably should not because the teachers need that additional help, additional training, but they do not go in this by themselves. There's a team and the parent is involved. It's a written plan that we evaluate several times in the school year. This is not put it on the shelf because we come back by the end of the year and say these are the goals that we, that we did-- state and then we did accomplish. So a lot of good things are going on, but I think you see the changing society. You can see the issues that we have to deal with in the classroom. There are times when I'm



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in this body, I look-- this is a classroom to me and look at all the different personalities we have in here. And many of us, including myself, come with issues to this class of 49 and if we look at ourselves and reflect on ourselves, we probably think, yes, maybe I do need some help myself in the particular area. Well, move that down to young kids and you're going to really see-- young adults, you're going to really see while-- why their life is complicated. I find it ironic--

**WILLIAMS:** One minute.

**PAHLS:** Thank you. I find it ironic at times when we talk about the money we spend in the public school system. We are ranked 49th and we are concerned about property tax, which I get. And I am down here to try to work through that, but be careful how we want to utilize our property taxes on lots of things because we do give exemptions out, tax credits. Now we're wanting to talk about helping the Catholic schools. I am a product of the, of the parochial schools or the private schools. I grew up-- my younger years. I'm not against it, but I'm more concerned right now what's happening in the public schools. Let's make them better so when we sort of "squinch" a little bit at this issue, like I say, let's reflect on our own body and I think we could see that this class probably needs some training in itself. Thank you.

**WILLIAMS:** Time, Senator. Thank you, Senator Pahls. Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr. President. Colleagues, I'm not going to spend a lot of time talking on this bill. I, I will support this bill through the first round. I would not know if I would be on second round or going further. I have some basic concerns that I, I need to express, which is we are saying that mental health is important and that ESUs should do all these additional trainings and they'll get dollars for it, but there's nothing in the bill to make them do that. And this is what we do year after year that I've seen down here is we put things in statutes, but there's no penalty if they don't do it. And what I've seen, unfortunately, in my community, far too often with good intentions, nothing actually develops because they don't have to. They find ways around doing things rather than actually doing what they need to do for the community that I often represent. The second issue that I'll have to deal with from General to Select is ESUs versus school districts. I never really have liked ESUs. If I could get rid of them, I probably would. But I don't like the idea of ESUs doing all the training, but the school district is required to coordinate and do everything else when the ESUs are getting the funding to do it. So to

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me, there's a huge disconnect there. The last thing is college credit testing and there will be more-- I'm just now getting through the amendment. I was actually reading a different amendment for tomorrow-- I found out-- all morning, but the college credit testing. I sat here and watched on this floor many of my colleagues get up and say that we have to require private schools to do X, Y, and Z when it comes to suicide or inappropriate touching, just like we have to do for public schools, yet the college testing part of this bill only applies to those students who are in public schools because it is the public school who gets the reimbursement back. So my issue with that is let's be consistent. There are many kids in the district that I represent who are in poverty who go to a private school. In fact, I know pretty much a historically-- I'll call it a historically black school in Senator McKinney's district called Jesuit, who many of them meet private-- meet this low-income requirement who often sometimes go to private or sometimes don't, but they're not treated the same based off of poverty. So I think there has to be a, a change in that section to no matter where that kid is-- I don't care what school they go to. I don't care what school district they go to because if that's the case, then I'm going to start distinguishing on the floor with the amendments that if you can go to Westside or Millard and even though you're private-- or, or low-income, you can obviously have transportation to go there, so therefore, you might not meet the same requirement so we should distinguish between them. I don't care where a kid is. If they're a poverty, poverty student, they should be able to apply for the same grant for going to college if that's the purpose of the grant. So those are my initial thoughts and like with many bills and being in all-day committee hearings, I'm not willing to oppose it right now on General File. I think those are things we can work going to Select File, but I don't know if we can resolve the ESU issue. I just-- and part of it is I don't deal with ESUs in western Nebraska, but in Omaha, Omaha Public Schools is their-- also their own ESU. So I don't know why Omaha Public Schools can't do the training themselves and all the money go directly to the schools. Same as-- I know outside of Omaha, their, their ESUs are shared with Ralston and Millard and everything, but if we're going to hold the school accountable for doing things-- the school districts-- then we should hold the schools also accountable for providing their own training. And if we're going to provide dollars to set up cash funds at a-- at tunes of millions of dollars for mental health training--

**WILLIAMS:** One minute.

**WAYNE:** --we ought to have a penalty if they don't comply. Either this body is going to get serious and say mental health is important and if

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you don't comply, we're going to take money from you or we're going to establish some kind of penalty, then we're just going off with good intentions. And I can tell you, historically, good intentions have never worked for the communities that I represent. So there are some fundamental issues that I have with this. I will work with Senator Walz, Chair Walz from General to Select because I just got the chance to read this. I've been working on the bill after this, so I don't think it's fair for me to not support the concepts at this point. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Wayne. Senator Vargas followed by Pansing Brooks and McKinney. Senator Vargas, you're recognized.

**VARGAS:** Thank you very much. First, I just want to-- thank you very much, President. I do want to acknowledge Senator Wayne's concerns. They're a serious concern. I think they are things that we probably can look at and should. I still believe that LB529 has obviously, not just the merits, but the urgency for us to move forward on LB529 and I didn't get to finish my thought from the first time I was on the mike regarding the, the NOG-specific component to this. That's-- the majority of these funds are going to Nebraska Opportunity Grants. There are other ones and you could see from the financial breakdown that Senator Walz or Chairwoman Walz handed out on all the revenue amounts and essentially all the different breakdowns, but the largest breakdown of 58 percent is going to the Nebraska Opportunity Grants Fund. It expires this year. This is unlike just a personal priority bill or another idea that we have. It is a necessary thing that thousands of Nebraskans, specifically students, are relying on. The universities that are helping to, to balance financial aid to students and the highest-needs students, Pell Grant recipients like I was a Pell Grant recipient are relying on this. It's urgent that we pass it. It's urgent that we pass it on its own because it's something that's been worked on by a committee for several years. And if we don't, we're sending a very distinct message to all of the students out there that rely on these funds to help offset costs to go to postsecondary institutions in our state. You know, I'm, I'm more dismayed because this is something that has-- it's, it's not just merit on its own. It is-- we talk about bringing bills and we're, like, we have to pass a bill. It's going to expire. This is that bill. We have to pass LB529 because it's going to expire. I'm really concerned that we're losing sight of that aspect of this because the Nebraska Opportunity Grants program is our only mechanism outside of the Nebraska career talent scholarships that are, are merit based, not need based. This is it. This is all we have outside of scholarships and their own funding aid that they provide that can help offset costs for low-income students.

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And for those of you-- and I don't know how many of you fall into this bracket that were a Pell Grant recipient when you went to undergrad or you went to postsecondary education, every single dollar amount counts. The average amount right now is somewhere in the \$1,700, \$1,800 range. And with increasing allocations and hopefully also increasing funds from the General Funds in the future, we'll be able to then increase that amount so that we're offsetting some of the costs for low-income students. Because if you look at the statistics, the most predictive measure of whether or not somebody can be successful right now in postsecondary education, some of those predictive measures includes the ability to pay and loans. That's why this is so urgent and it needs to be taken up. It's why it represents 58 percent of the allocation here. It's why there's so many universities, public and private universities, that rely on these public dollars from the lottery funds to be able to operate and to be able to give a balanced financial aid package. The thought that I didn't get to finish from last time is there are 30 percent--

**WILLIAMS:** One minute.

**VARGAS:** --about-- of individuals that do not access these funds at all. These are low-income students. They qualify, they, they completed their FAFSA somewhat late and then because they are sort of late in the process of applying, they've missed out on NOG funds altogether by the time they get to their postsecondary institution and they're getting their financial aid package. They just miss out. It's not because they don't want to give it to them. It's because those universities have exhausted their funds for their allocation of students. So we're looking at 20 to 30 percent of low-income students that are trying to get postsecondary education that miss out on this altogether because we don't have enough funds in it. Colleagues, I ask for your support for LB529. The underlying major component of this is the Nebraska Opportunity Grants program. If we want to grow our state, if we want to retain and attract people, we need to do better than 35th in the nation. This is getting us closer to where we need to be and it's also necessary and urgent. It's not something--

**WILLIAMS:** Time, Senator.

**VARGAS:** --that we're trying to add on. Thank you.

**WILLIAMS:** Thank you, Senator Vargas. Senator Pansing Brooks, you're recognized.

**PANSING BROOKS:** Thank you, Mr. President. I'm also getting up to sing the praises of the Nebraska Opportunity Grant, as I did before too. I

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just want to give a little bit of-- more information about it. The yearly process is that the Nebraska Opportunity Grant applications to participate are sent to colleges and returned to the CCPE in April. Then data from applications used-- is used in the allocation formula to determine how to give that, that grant money across the state. Tentative allocations are sent out then in May and there are a pool of available funds and they use some general funds of known and estimate the lottery funds. The final lottery allocation is received in June and the final allocation is then sent to the colleges in July and there's a pool of, of available funds and then the colleges submit the list of recommended students for approval. It must be done prior to dispersal to the student and they send in multiple lists throughout the year. The funds are sent at least twice a year based on approved list of students and final submission must be in by May 31 of the award year. They do perform audits of student eligibility at each participating college every year. And I already told you how much money NOG has awarded. The average grant is somewhere around-- just above-- just barely above \$1,000 per student. So that's-- while it doesn't seem like a significant amount, \$1,000, it is very significant to those kids who are in poverty and Pell Grant eligible. Generally-- we, we've talked about this for years in many different situations and cases about what we need to be doing is increasing NOG because NOG is the one, the one grant that is allowed to all students across the state, public, private, independent schools, no matter what and that's been determined by the Supreme Court. That is the only, the only money that is given to all students across the state. So at the University of Nebraska at least a few years ago, 24 percent was awarded to Nebraska, 19 percent to the independent schools, 9 percent was awarded to the private and career schools. The state colleges got about 7 percent and the community colleges got 41 percent. So I wanted to read a little bit of information that was written by Sandra France [SIC]-- Dr., Dr.-- or sorry, Dr. Sandra Fritz [SIC] when she was executive vice president and provost at the University of Nebraska. She talked about NOG and said that the University of Nebraska awards nearly 11,000 degrees a year, a significant contribution to the state's workforce. Consequently, one of every seven Nebraskans is a University of Nebraska graduate. For every dollar the states invest in the University of Nebraska, they give back \$6 to the state in economic activity. The university is the entity to which-- that can help grow Nebraska out of this, out of our turndown any time. No other state entity drives Nebraska's workforce, workforce development, agricultural innovation, outstanding healthcare, as we have had-- given to us an example this year, and quality of life like the University of Nebraska does. At a time when our economy needs more college-educated workers to fill critical positions--

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**WILLIAMS:** One minute.

**PANSING BROOKS:** --and grow its tax base, we are doing all we can to increase enrollment. State support for needed-- need-based aid through Nebraska Opportunity Grant is critical for our students. And NOG is based on the costs and fees of the, of the University of Nebraska and that's how it is awarded to the other schools. It goes to the institution to be directed toward that Pell Grant eligible student and that's how they figure it out. It's highly important that we continue to support NOG, the Nebraska Opportunity Grant, and do whatever we can to make sure that it does not sunset this year. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Pansing Brooks. Senator McKinney, you're recognized.

**McKINNEY:** Thank you. I rise in support of LB529 and the, the amendments as well. I just wanted to stand up and say I'm all for, you know, the NOG program because there needs to be an equitable distribution of resources for students, especially students from my community because I myself was a, was a, you know, a first-generation college student and I needed all the help that I could get to even get through my undergrad and it, it was a struggle. My parents didn't have a lot of resources. My family didn't have a lot of resources. So things like this I'm all for, but I just always believed that it needs to be equitable and it should be given based on equity and not just on equality. I also like within this the Door to-- the Door to College scholarship for the students in the YRTC's because I have a-- I know a lot of individuals that ended up in YRTC's and I'm pretty sure I probably know some that are in right now and I believe those students need as much opportunity to succeed in life as just anybody else and I think this scholarship would be definitely helpful for those students to succeed in life. We can't just forget about them. I did want to comment on Senator Groene's comment earlier when he was speaking about AM719. I would just say it's common sense that students from my community and students with disabilities will be most affected by that type of legislation and it would cause a lot of harm to my community. I don't believe that we should provide any teacher with immunity, especially those in my district. I've seen teachers slam students. I've seen it happen. And with immunity, there will be no way for the family of that student to ever get any justice. It would just be a student gets slammed, break a collarbone, and oh, it just happened at school because the teacher said it was reasonable to slam a student. I don't believe in that. Teachers already have the affirmative defense, which means that a teacher can assert a defense that their actions

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were reasonable. The reasonableness of the teacher is up to the fact finder on a case-by-case basis. They-- teachers should not have immunity. School administrators should not have immunity to just grab students and slam them. I've seen it happen. I promise you I've seen it happen. I don't know if it does-- I don't know if it happens in western Nebraska, but I could tell you from experience being a student and just knowing from experience-- I coach youth from my community-- teachers snatch up kids and slam them and they should not be provided with immunity because it's going to create an issue and then families are going to be left with high medical bills. And they can't hold the district accountable because the teacher has immunity to just slam their kids, choke their kids. It makes no sense. And then we also have school resource officers in school. Will they have immunity as well? My community already has a problem with police and school resource officers. So just imagine at Omaha North High School, a school resource officer decides to shoot a student. There will be immunity for that officer and nothing would happen. It's a problem. So to stand up and say it's common sense to have this type of things-- this type of thing in statute is-- it, it just doesn't make sense. It's not common sense. Common sense would tell you that this would create an issue. The data backs it up. And I'll yield the rest of my time back to the Chair. Thank you.

**WILLIAMS:** Thank you, Senator McKinney. Waiting in the queue: Morfeld, Geist, Groene, and a reminder that we will be standing at ease at 11 a.m. Senator Morfeld, you're recognized.

**MORFELD:** Thank you, Mr. President. Colleagues, now that we've talked about FA10 and walked through a little bit of the issues and why I support FA10 after talking to Senator Clinton and Senator Walz, I do want to talk a little bit about LB529 in general and quite frankly, how important it is, particularly as a state senator that represents the University of Nebraska-Lincoln District area, however you want to talk about it. But I want to talk about the importance, particularly of the Opportunity Grants, the opportunity funding for scholarships. One of the biggest problems we have-- and, and I want to remind you that this funding is for both private and public schools, so it actually goes to both institutions and it's been a longstanding program that has helped defray the cost of higher education. And we can all be proud that we have some of the most affordable public schools in the entire country in terms of higher education. That's something we should be proud of. It's because we've made investments here. That being said, I'll also say that despite being one of the most affordable higher education systems in the entire country, it's still pretty expensive for a lot of working class and lower-income

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students and the NOG program really helps making sure that those students get funds so that they don't have as much student loans when getting out of college. And less student loans, colleagues, means that people have more opportunity to invest in their community. They're paying less monthly to the federal loan servicer, which means that they have more money to put into the local economy. It means that they have more opportunity to be able to, quite frankly, invest in their community. And so that is the importance of this funding and that is the importance, particularly of LB529. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Morfeld. Senator Geist, you're recognized.

**GEIST:** Yes, thank you, Mr. President, and I would ask if Senator Walz-- Chairman Walz would please yield to a question?

**WILLIAMS:** Senator Walz, would you yield?

**WALZ:** Yes.

**GEIST:** Yeah, Senator Walz, we talked about this off the mike, but I, I love that there is financial aid in this, in this bill for the YRTC--

**WALZ:** Yeah.

**GEIST:** --attendees. And as I was reading through, I was confused on what the full-time status for enrollment means and I wondered if you would just explain that section of the bill, which is on page 67 and it starts with lines 13 and goes to line 18. Full time and part time, if you would explain that.

**WALZ:** Sure, just let me grab--

**GEIST:** OK.

**WALZ:** --get to it there. "Full-time status means enrollment in at least twenty-four semester credit hours, thirty-six quarter credit hours, or nine hundred clock hours per award year;" and I know that it was a concern of yours that, wow, that's a lot of hours--

**GEIST:** Yes.

**WALZ:** --but it is per year.

**GEIST:** --per year.

**WALZ:** Yes.



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**GEIST:** Because we were interpreting that as per semester and I'm thinking that for an excellent student, 24 hours a semester is a lot.

**WALZ:** Yes.

**GEIST:** So it is per award year and I just wanted to put that clarification on the record in case anyone else was confused about that as I was. So I am supportive of this and I especially like this part of, of the bill. I think awarding scholarship money to those who may at one time in their history have been at risk is excellent. The way to keep them out of trouble and staying on the right path is a good education, so I appreciate especially this part of the bill. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Geist and Senator Walz. Senator Groene, you're recognized.

**GROENE:** To all of those cheerleading NOG, I agree. It's a good program, but existing we give 62 percent of the money to NOG. I heard no complaints from anybody that this bill decreases it to 58 percent of the money and it's declining money because of-- now we've legalized gambling. So I, I think what we ought to do is just extend the sunset dates for two years for the existing lottery distribution because we would protect the 62 percent that-- I've heard so much support for NOG-- instead of decreasing it by 4 percent. So that is an option. I'm looking at an amendment. Let's just leave everything alone and let's not have this panic situation we-- where people are IPPing bills at the last minute to stunt the support for improving this bill and other maneuvers that I would have never done if I was Chair, but then I'm not nice. But what we need to do is just extend the sunset dates, folks, and then come back another day and visit this issue when things have calmed down. There's a lot of things in here that are bad, folks. What we had done last year was give each school a set amount of money and they, local control, decided how they wanted to spend that on training. It's called local control. This bill gives it to the ESU Coordination Commission, all of it, and then each school has to apply with a grant. A lot more paperwork has-- little schools have to compete-- all you rural senators-- have to compete with the big schools with higher grant writers to receive money for the training. And the ESU is in the game now, too, that they can get the-- write a grant. So you got 15 or somebody said they had 16 schools in a-- in their ESU. What if one of them don't want to take the training from the ESU or two or three because of their philosophy and their beliefs and their-- that they want to hire Boys Town to train them? Senator Stinner, I'll repeat what I've always said and you like it. This is a bad bill, the way it's written. This is big government. This is an

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attack on local control. Do-- when your administrator calls you and been told by their lobbyists that we went along with this, ask them if they knew they lost control of the funding on the training. Ask them if they are dictated to by their ESU on any of the programs now or do they have local control and they contract with any issue if they wish. I have four or five school districts in my local ESU that have went out and hired a psychiatrist on their own because-- be splitting the bill five ways or four ways. It was a lot less than what the ESU charged them for the services. This bill takes that away from them on this issue, on the training. Senator Murman's bill corrects that. Are we willing-- amendment, Senator Murman's amendment. Are we willing to pass bad legislation not well thought out, written by the lobby--

**WILLIAMS:** One minute.

**GROENE:** --not by the lobby-- let me correct that-- by the bureaucrats in government that the ESUs and Department of Ed-- not by local people? I got in trouble because I listened to people instead of the establishment and now I'm no longer Chair. I would think there are 25 to 30 senators in this body who believe you listen to the people not the establishment. Read the bill. Read page 10 of the amendment. Read where the money goes. Do you want to lose local control? Do you want a one model fits all of training? You know what that will be. It will incorporate some of the new education requirements on health from the Department of Ed. Does your community want that? Think, please, think.

**WILLIAMS:** Time, Senator. Thank you, Senator Groene. Speaker Hilgers, you're recognized for an announcement.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I interrupt this debate for the promised drill that's going to take place here in about seven minutes. Senator Williams has graciously, graciously agreed to remain in the chair. So at 11 a.m., Senator Williams will make an announcement. He'll interrupt debate, make an announcement, and, and let the body know that we will be standing at ease. At that point, anyone who wishes to participate-- it is voluntary-- should go through those doors, the south doors. Our Red Coats, our sergeants are going to be out there and show you where to go. We're going to go down to-- down into the basement. We're going to go-- they're going to show us where to go in an emergency. We're not going to do what you might do in grade school where you go and sit for 30 minutes and wait for the all clear sign. You're going to go so that you know where to go in the event of an, of an emergency. We're going to stay at ease for about 15 minutes and we'll allow people to go down. We've told-- we've been told it will take about 15 minutes at most and as people come back, once we can restart debate, we'll do so.

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So Senator Williams will be here and others who don't wish to participate-- I hope you all do participate. I certainly will be going down and that will happen at 11 a.m., so we have time for I think one more speaker now. We'll keep the queue as it is, but that will start in about five minutes. Thank you, Mr. President.

**WILLIAMS:** Thank you, Speaker Hilgers. Senator Pahls, you're recognized and this will be our last speaker before recess.

**PAHLS:** Thank you, Mr. Chair, and if I see everybody leave, it's not because I'm boring. It's because they're following the procedures that they need to do. I want to thank you. After listening, listening to Senator McKinney, McKinney, I really have some concerns. If those things are happening-- and I'm not doubting that they're not-- I mean, I'm not questioning it at all. I really-- we need to apologize. To me, that's the culture of that building or that system. It goes-- basically, if the principal is allowing that to happen, he or she should be held accountable. If the principal can't handle it, you just go up the line till eventually it's the superintendent. Those things should not be happening. If a teacher had grabbed a child in my building, you better have a good reason because we are going to sit down with several people and discuss this. And I would even report it to the superintendent because this is-- you may hear about this. This is what happened. So again, if that's happening, that's that culture that needs to change and I-- like I say, I apologize if it is. I'm going to just-- a little bit about-- we always like data, so I'm going to give a little bit of data about myself and why part of this bill would help a, a person like me as a youngster. I came from the other side of the tracks, had no money. Neither one of my parents had gone to high school because of that generation. They were farm kids, so they were supposed to help on the farm instead of going onto high school. That was just the way life was. So neither one of my parents went beyond eighth grade. They had six children. I was the first to go to colleges because of a-- the Elementary and Secondary School Act from the federal government. I received \$600 per semester. That was enough to enable me to go to school, plus working on the side. These programs, even though some of the money may not be what somebody wants, it's something that generates-- makes them motivated to want to go on. This is what I like to brag about. Out of the six children in my family-- and I say this with pride because my parents were hardworking people. They just did not go to school. But you would want my dad at that time to work in your car, etcetera, etcetera. He was the only-- out of 11 kids in his family, the rest of them were-- went into agriculture. He did not. They were wealthier in the long run. My dad was just making ends meet. But out of the six kids-- and I like to

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brag about this-- we have 17 more degrees than my two parents had, adding all the, the degrees we all-- all of us accumulated over the period of time. And I can tell you those six children of their-- of my parents are paying much more in income tax, property tax than my parents did. So if you're willing to invest in education, it will pay off. It will pay off. I'm just using that from personal experience. My dad was a hard worker. My mom was a hard worker. She basically was a, a home mom, you might say, good-- one of those good people, but all the children went and advanced and did all kinds of work--

**WILLIAMS:** One minute.

**PAHLS:** Thank you. And like I-- I have a sister who's an attorney and I tell her I still love you. For those attorneys in the, the, in the body, I have to throw those in every now and then. But I'm just saying my family is an example of why we need this stuff. Help those kids, underprivileged kids who just don't have a chance unless we feed them a little bit, generate that excitement, and you end up with somebody like me. Now I may not be-- that may not be a good example. I'm-- as you can tell, I, I may have a wicked sense of humor. And I thank you and I'm telling you, body, you have about a minute to get ready to go where you should be going. Thank you.

**WILLIAMS:** Thank you, Senator Pahls. Clerk for announcements.

**ASSISTANT CLERK:** A series of items, Mr. President. New A bill, LB544A by Senator Wayne. It's a bill for an act relating to appropriations; to appropriate funds to carry out the provisions of LB544. Committee reports: Committee on Education reports LB673 as indefinitely postponed. Enrollment and Review reports LB169 and LB255 both as placed on Final Reading. Committee on Enrollment and Review reports LB281 to Select File with E&R amendments. Committee on Urban Affairs reports LB647 to General File and LB549 to General File with committee amendments. Finally, an amendment from Senator Briese to LB408 to be printed in the Journal. That's all I have at this time.

**WILLIAMS:** Thank you, Mr. Clerk. Members, we will now stand at ease.

[EASE]

**WILLIAMS:** Members, we'll come back to order in five minutes.

**HILGERS:** Colleagues, we're going to be-- we're going to continue with where we were. Before we stood at ease, we were debating FA10, a floor amendment from Senator Walz. We'll continue in the queue, which is Senator Morfeld. Senator Morfeld, you're recognized.

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**MORFELD:** Thank you, Mr. Speaker. Colleagues, I think we're going to vote on FA10 here in just a moment. I do want to remind everybody that for FA10 takes out one or two words and this is a friendly amendment that I've talked to with Senator Linehan and Senator Walz and I would appreciate your green light on it. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Morfeld. Seeing no one else in the queue, Senator Walz, you're recognized to close on FA10.

**WALZ:** Again, this is just a friendly amendment and I appreciate the fact that Senator Linehan and Senator Arch has worked with us on this and would appreciate your green vote. Thank you.

**HILGERS:** Thank you, Senator Walz. The question before the body is the adoption of FA10. All those in favor of aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 35 ayes, 0 nays on the adoption of the amendment to the committee amendments.

**HILGERS:** The amendment is adopted. Mr. Clerk for an amendment.

**ASSISTANT CLERK:** Next amendment, Mr. President, offered by Senator Murman, AM719.

**HILGERS:** Senator Murman, you are recognized open on AM719.

**MURMAN:** Thank you, Mr. President, and good late morning, colleagues. I would like to say before I do my planned opening that some shenanigans were pulled this morning. Much of my bill, LB673, is what I am trying to amend into LB529. It's not the whole bill, but a Executive Session of the Education Committee was called at the last minute this morning at 9:30 a.m. and it was voted to IPP along what would be party lines if we were a partisan Legislature, so very disappointed in that. Today, I bring AM719 to, to LB529 as amended and I would like to thank Senator Walz for her hard work on LB529, but I believe that LB529 is incomplete and needs AM719 added to make it a better bill. I do not look at this as an unfriendly amendment and I want to emphasize that. I think it's a friendly amendment. AM719 retains the scholarships and programs that we have discussed this morning that are in LB529 through the lottery, but improves on the behavioral awareness intervention and support provided by LB529, making LB529 a more complete and better bill. First of all, I would like to refresh everyone on the history behind AM79-- AM719 from at least the last two years that I have been working on this legislation. This is not a new issue. This amendment focuses on behavioral awareness training. Who is responsible for such

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training and whether teachers or other school personnel may utilize reasonable physical intervention when necessary? Senators that were here last year will recognize this amendment as generally a compilation of last year's LB998 and a modified version of LB147. Both bills as revised were merged last year in AM3243 and debated on this floor. AM3040-- AM3243 received 32 votes, one short of enabling it to move to Select File. It was broadly supported by Nebraska citizens and teachers. AM719 aims to ensure that every student in Nebraska has a safe school environment because every employee at their school will have basic training in how to safely manage inappropriate behavior without allowing that behavioral-- behavior to escalate. In Nebraska, we are fortunate enough that many of our schools are already providing some form of training. This language, however, would strengthen and clarify the steps that administrators, teachers, paraprofessionals, school nurses, and counselors can take to protect students and help provide a safe learning environment. Unfortunately, there are situations when students are bullying or harming other students and teachers. Violent acts by students happen in the classroom, sometimes in front of a teacher or they can happen in the hallways, school busses, or other areas of the school. An important part of this bill is that every school employee has to receive basic training so that they are aware of how they can appropriately and reasonably intervene to make sure the students don't harm each other, themselves, or anybody else in the school. In a recent interim study by the Education Committee, teachers expressed their concerns about being kicked, hit, bitten, spit upon, slapped, punched, or worse. One of the teachers had a traumatic brain injury due to a student assaulting her. Some students as well have been placed in danger. Overall, it's important to remember that the vast majority of the students across Nebraska are attending class and are coming to school ready and excited to learn. It's only a small percentage of students in schools that are bullying other students and being disruptive and causing incidents. Teachers are often hesitant to intervene or take steps to react in an appropriate way and are most times pressured to do nothing when there are serious disruptions in the classroom because schools are afraid of lawsuits. AM719 would allow schools to train their employees to recognize what is and what is not a reasonable response to problem behavior and bullying using mainstream, evidence-based industry standard practices. AM719 is intended to give each school district the opportunity to provide behavioral awareness and intervention training and support for administrators, teachers, paraprofessionals, school nurses, counselors, and other school employees with money distributed from lottery funds designated to the Nebraska Education Improvement Fund to Behavioral Training Cash Fund to schools based on the number of teachers in each school. The training will be offered annually and

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training reviewed once every three years. The language of the training was created by consulting experts from the training community, administrators, teachers, school boards, ESUs, and a number of other individuals. Behavioral awareness and training includes recognizing detrimental factors impacting student behavior, positive behavioral support and proactive teaching strategies, verbal intervention and de-escalation techniques, guidelines and removal from and returning students to a classroom, behavioral interventions and supports that will take place when a student has been removed from a class, and physical intervention for safety if absolutely necessary and reasonable. AM719 will also designate one or more school employees in a school district as a behavioral awareness and intervention point of contact for each school building. Each school district will maintain a registry of local mental health and counseling services. And we heard this morning a lot about mental health, how it's very necessary so that the behavioral awareness and intervention point of contact can coordinate with them to ensure students have access to any support that they need. Each year, school districts will need to submit a behavioral awareness and intervention training report of their plan to the state school security director at the Department of Education. If a school district does not submit their plan, they will not receive training funding for the school year. Additionally, AM719 provides that teachers and other school personnel may use reasonable physical intervention to safely manage the behavior of a student to protect the student, another student, a teacher, other school personnel, or other person from physical injury or secure property, property if it poses a threat to-- of physical injury. AM719 also protects teachers and administrators from wrongful legal action or administrative discipline if the teacher utilizes unreasonable physical intervention-- or excuse me, if the teacher utilizes reasonable physical intervention. Each school district shall have a policy describing the process for removing a student from a class and returning a student to a class with the goal of returning the student to class as soon as possible after appropriate instructional or behavioral interventions or supports have been implemented. AM719 allows each school district to select who will conduct the behavioral training rather than relying on the ESUs. The amendment deliberately left it open as to how the training would take place. It could be done with CPI, which is crisis prevention, prevention intervention training, Mandt training, Boys Town training, or other certified trainers. The school districts have local control to continue the training that works well for them. AM719 will address the protection of teachers, students, and school property from violent acts--

**HILGERS:** One minute.

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**MURMAN:** --to aid teachers-- thank you, Mr. President-- to aid teachers in maintaining order in their classrooms and encourage a better learning environment for all students. So my goal this morning and, and probably this afternoon too is that we can have a good discussion as to the merits of this amendment and to the merits of the underlying bill, which is a great bill. I urge the adoption of AM719 and I will be happy to answer questions that anyone might have. Thank you, Mr. Speaker.

**HILGERS:** Thank you for your opening, Senator Murman. Debate is now open on AM719. Senator Morfeld, for what purpose do you rise?

**MORFELD:** Mr. President, pursuant to Rule 6, Section 3(h), I'm requesting a ruling from the Chair on whether the Murman amendment is substantially similar to LB673.

**HILGERS:** Thank you, Senator Morfeld. Colleagues, I want to give some context from Senator Morfeld's point of order. L-- AM719-- Senator Morfeld is asking whether or not AM719 is substantially the same as LB673. You may have heard read across this morning LB6-- LB673 was IPPed in the Education Committee this morning, was read across. Under our rules on page 40, pursuant to Rule 6, 3(h), a bill that is substantially-- I'm sorry, an amendment that is substantially the same as a bill that has been IPPed has a different vote threshold in order for that amendment to be adopted. It is 30 votes, three-fifths of the membership, not 25 votes. That is the context in which Senator Morfeld's point of order is being raised so the body is aware. Senator Morfeld, I am reviewing the materials that have been provided to me this morning. I will hold a decision on your point of order for the moment. I will take it under consideration and advisement. In order to allow the body to have ample opportunity to react to that point of order decision when it is made, I will make that decision after lunch. So when we reconvene after recess, I will make that decision after lunch. I do invite proponents and opponents of this particular point of order, in particular Senator Murman, Senator Morfeld, Senator Walz, Senator Groene to be able to come to my office over the noon hour to present any arguments regarding this issue so that we can have the decision after lunch. So I will hold that point of order decision, take it under advisement until we reconvene after our recess. Debate is open on AM719. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. I stand in support of AM719. It's what 80 percent of the teachers wanted when they were surveyed a year and a half ago. It is overwhelmingly what I've heard from parents and students. When we-- parents drop their child off at the front door of a school, they need to be assured that those employees of that public



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school-- the custodial care of their children-- that their children are safe. They also want to be assured that the employees are safe. They want to be assured that the best possible individuals are in those classrooms and we are losing them with early retirements and young people deciding not to be teachers because they have no control over their classroom. Senator McKinney, your comments were well taken, but this bill or this amendment does not give legal protection or immunity from civil or, or le-- or pros-- or criminal acts. What it does do, as you commented, that, yes, teachers once in a while have to protect children. What's happening now, even though in statute you have the ability to be-- if you are criminally charged, that there are statutes for self-protection and the protection of others. But guess what? That doesn't protect your job. If an administrator or school board decides to fire you because of what you did to protect yourself or another student, you can be fired. What this amendment does is protect employees at the school to do the right thing, to do the right thing. They are being fired. They are being put on, on suspension. One teacher contacted me and said they grabbed a child's wrist when they were about to strike another child and they were put on suspension. Let me explain to you special education students are abused in schools by other kids, by other kids. All this talk about the special education student being restrained. They are being attacked by other kids. Teachers overwhelmingly have told me the problem is not the special education kids, the problem is the kid that was raised without barriers. As they assault teachers, we need to protect the environment of the classroom. We need to protect the environment in the classroom so it is-- the time is spent on education. And yes, Senator McKinney, I'm not picking on you, but you made the comments about rural Nebraska. This bill was brought to me originally-- a form of this bill-- by rural, small school districts and teachers. One teacher told me they taught for 35 years. They tried medicating the kids and they took that away from them, so she said I had to medicate myself to continue my career so I could survive a school day. Training is great, intervention training. We worked with Senator Arch a year ago because of his experience at Boys Town on the training.

**HILGERS:** One minute.

**GROENE:** I wonder if that police officer in Boulder or, or in Colorado who got shot was trained in intervention. I'm sure he was. And de-escalation, I'm sure he was. But he got killed. No matter how much training you give, there are those instances where it doesn't work. Violence occurs. Senator Murman's amendment protects those teachers, protects those children, protects the environment in the classroom. It doesn't meant to harm anybody. Nobody is wanting to beat children or

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harm children. They're protecting children. One thing that was brought up by an individual who contacted me was he says I lost it in school, made a complete fool of myself, hurt another child in the classroom. I live--

**HILGERS:** Time, Senator.

**GROENE:** --with that every day.

**HILGERS:** Time, Senator. Thank you, Senator Groene. Senator Morfeld, you're recognized.

**MORFELD:** Thank you, Mr. President. And colleagues and, and Mr. President, I hope you hear my speech here. I know you're talking to Senator Murman, but I'm going to make the case on why this is substantially similar. And I want to start first with the actual spoken words of the introducer of the amendment just a few minutes ago. He said, quote, this is my bill. He specifically referenced his bill, LB673, and said this is my bill when opening on this amendment. Colleagues, if that is not direct evidence that this is substantially similar and this is the same bill-- or excuse me, the same essence, the same type of language, the same intent, then I don't know what is. There might be many on this floor that agree with Senator Groene that his bill, Senator Murman's bill, the bill that we've been debating for the last four or five years, which is substantially similar to this bill, the-- I know that there are many of you that agree that that bill should pass probably, but that's not what this is about. This is about following our rules and our rules state that a bill that is substantially similar requires 30 votes if the committee killed it. Now I'll be honest with you. I didn't want to IPP the bill, but when a senator who's a member of the committee attaches a hostile amendment that did not have enough votes in committee to the committee priority bill, we aren't left with very many options. I'm going to go through right now-- and maybe after I punch my light again-- how this is substantially similar, but first, we must start with the own words of the introducer of the amendment who started out by saying this is my bill. So this is not a debate about whether or not you agree with Senator Murman's amendment and Senator Groene's former bill. Second, we have to go to the actual rules and the rules state on Rule 6, Section 3(h), "any motion to amend a bill or any motion to amend amendment shall require a majority vote of the elected members, except amendments which are substantially the same as any bill indefinitely postponed shall require a three-fifths vote of the elected members, unless proposed as part of a committee amendment," which it's not. Substantially the same, substantially the same. So let's go to Black's Law Dictionary. Containing the essence-- substantial: containing the

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essence of a thing, conveying the right idea, even if not the exact details. Now colleagues, Senator Murman will state that this is not substantially similar, but he just stated that this is his bill. So he stated it himself, but not only that, let's go through the statement of intent for his original bill and then go line by line in the statement of intent. If you pull up the statement of intent, one of the parts of the statement of intent says behavioral interventions and supports that will take place when a student has been removed from a class. If you go to LB673, it's page 6, lines 19-- excuse me, I can't read my own handwriting-- but it's, it's, it's page 6 and it's line something through 14. In the amendment, L-- AM719, page 2, lines 13 through 18.

**HILGERS:** One minute.

**MORFELD:** The same language, physical intervention for safety. LB673, page 5, lines 8 through 10. AM719, page 1, lines 10 through 13. I'm going to distribute this to the entire body and I can go line by line, but I only have a minute left, but there are five or six things that are substantially similar. And even Senator Groene, when he got up in support of the amendment, noted this is an extension. This is essentially the same bill that he's been working on for years. If this is not substantially similar, colleagues, then I don't know what is. And the reason why we have a committee process is to vet these bills and it is the committee's prerogative to also IPP bills, particularly when a bill that did not have support in committee gets attached as a hostile amendment to--

**HILGERS:** Time, Senator.

**MORFELD:** --a committee bill. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Morfeld. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. Speaker. Fellow senators, friends all, I stand in opposition to Senator Murman's amendment, but I would like to take him up on his offer to have questions answered. Senator Murman, if you would yield?

**HILGERS:** Sorry, Senator Blood. Did you ask a question of Senator Murman?

**BLOOD:** Yes, if he would yield?

**HILGERS:** Senator Murman, would you yield?

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**MURMAN:** Yes.

**BLOOD:** Senator Murman, I've been reviewing this all morning long and I have a long list of questions, so I hope you're, you're ready for me here. So your bill, which again, I don't-- I agree with Senator Morfeld. I, I'm not sure why we have this amendment on the board today because it does seem to be identical to the bill, but I want to go ahead and move forward on the questions that I have, should it be judged differently. So your bill refers over and over again to the Behavioral Awareness and Training Act, especially for your definitions. So that's something that's not current law right now, but is what I see to be in AM495, starting on page 7, line 27. So that is a white-copy amendment that becomes LB529 and it says may use "reasonable physical intervention." Are teachers and similar school personnel actually trained to use physical intervention? And my concern is that if they lack the proper training, then this is an unfair expectation to teachers as well as a potential, potential danger-- I can't talk-- as well as potential danger to students when not done properly. So can you explain to me about why you're referencing something that's not even law right now?

**MURMAN:** Well, the whole purpose of the amendment is to make it possible. And, and LB529 also, by the way, is to make it possible for training for teachers and school personnel that has never been provided before.

**BLOOD:** All right. So that, that's not-- that doesn't answer the question. So can you explain what a pattern of disruptive behavior is? Because I noticed that that's both-- in both of your-- your bill and your amendment that reflects your bill. What is the pattern of disruptive behavior? It says pattern of disruptive behavior before the school provides additional support-- it's in line 2-- page 2, line 15. Does this, does this bill and your amendment offer teachers to be removing students daily?

**MURMAN:** No. The goal is that-- to minimize the removing of school-- of students from the classroom and-- as I read and also to return the student to the classroom as soon as possible if they are removed.

**BLOOD:** OK, so reading your bill and your amendment, your amendment, page 1, line 19, because they seem to be the same, the bill protects teachers from discipline if it is considered reasonable, page 1, line 17. What type of investigation is this going to be and the question that I have that just is really stuck in my craw is why aren't we holding teachers to the same standards as police officers when it comes to physical restraint?

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**MURMAN:** My bill does not reference police officers and I--

**BLOOD:** Right, I-- that's not the question. The question is why are we not holding them to the same standard as police officers when we're talking about physical restraint? That's the question.

**MURMAN:** Excuse me. I should have said the amendment, not my bill, but what was the question again?

**BLOOD:** But you did say your bill because your bill is your amendment.

**MURMAN:** No, I disagree with that.

**BLOOD:** All right. So again, who decides that the physical intervention was reasonable? Page 1, line 19, the bill protects teachers from discipline if it is considered reasonable. Page 1, line 17. Will there be any kind of investigation into this and why aren't we holding teachers to the same--

**HILGERS:** One minute.

**BLOOD:** --standards as police officers when it comes to physical restraint? What's the reasoning for that? Real quickly.

**MURMAN:** Page 1, line 17, "no teacher or others school personnel shall be subject to--"

**BLOOD:** What is the standard that we're using and why is it less than what we hold police officers accountable for when it comes to physical restraint?

**MURMAN:** As far as police officers go, I suspect that that varies from school district to school district to-- of what they are allowed and not allowed to do, so I don't have any point of reference in comparing teachers to police officers.

**BLOOD:** We'll, we'll revisit this question because I'm, I'm up in the queue again. Thank you, Senator Murman and thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Murman and Senator Blood. Senator Matt Hansen, you are recognized.

**M. HANSEN:** Good morning and thank you, Mr. President, and good morning, colleagues. A couple of things here. First, I think the-- it is just patently obvious that AM719 is Senator Murman's bill. Multiple people who have spoken in favor of LB719 [SIC] have talked about it in terms of being the successor. They've referenced prior bills. They've

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referenced LB147, which we know is basically the same issue, the same concept that led to LB673. And I think today, just on its face, this is substantially the same as a bill that has been indefinitely postponed. And if we are not going to go down that track, that's probably a rule in the rulebook we probably just shouldn't have anymore because this, short of being word for word, is as clear as just kind of a plain-faced reading as you can get. So I wanted to put that on the record. I, I think we've had people kind of been open about their intentions until they realize being open about their intentions hurt their case, then they flip-flopped. That being said, this bill, this concept, this issue is one we've debated a number of times. It has not gotten out of the Education Committee a number of times, including this year. It is one I could still continue to oppose for many good reasons that I've explained over multiple years. I just wanted to alert the body that certainly AM719, for me at least, is a poison pill to the whole lottery bill. It's a poison pill to this whole package and I won't make promises I'm not prepared to keep, but I'll just say I have a motion pad and I have no problem taking the time on LB590-- LB529. That's not a threat. That's not a-- trying to sway anybody at this particular moment, but I just wanted people know the stakes that we view the Murman amendment, Senator Murman's amendment as the same issue, the same concept. And it's going to get much of the same opposition, which is why we've seen it get IPPed in the Education Committee. With that, Mr. President, I will yield the balance of my time to Senator Morfeld.

**HILGERS:** Senator Morfeld, 2:52.

**MORFELD:** Thank you, Mr. Speaker, and thank you, Senator Hansen, for your comments. I want to keep kind of laying the groundwork here. I listened to Senator Murman's opening and if you listen to Senator Murman's opening and you read Senator Murman's statement of intent on LB673, not only does his amendment hit on all the key points in his statement of intent, he also hit on all the key points of his statement of intent in his opening statement on AM719 after referring it to-- as this is my bill that I introduced. Colleagues, I want to go through a little bit more on the substance, but if you look at the second to last paragraph in the statement of intent, it says, "additionally, LB673 provides that teachers and other school personnel may use reasonable physical intervention to safely manage the behavior of a student to protect the student, another student, a teacher or other personnel or other person from physical injury or secure property if it poses a threat of physical injury. The affected parent or guardian shall be notified." It's in AM719 page 1, line 3. It's also in LB673, page 5, line 5. Each school district shall have a

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policy describing the process for removing a student from a class and returning a student to a class with the goal of returning the student to class as soon as possible after appropriate instructional or behavioral interventions or supports have been implemented. LB675, page line-- page 5, lines 24 to 31. AM719, page 1, line 2, lines 2 to page 2, line 14.

**HILGERS:** One minute.

**MORFELD:** Colleagues, Senator Murman said it himself in his opening, this is my bill. Senator Murman hit on all of the points of his statement of intent for LB673 in the introduction of AM719. Why did he do that? Because it's substantially the same bill and we all know it. When the bill was filed last night, we had advocates across the state emailing us saying hey, his bill, LB672, is on the, is on the bill as an amendment. Everybody knows within this body that this amendment is LB673. That is why it requires the higher threshold of votes in order to be compliant with our rules and in order for our rules to mean anything. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Morfeld and Senator Hansen. Senator Albrecht, you're recognized. Is Senator Albrecht on the floor? Senator Albrecht, you're recognized.

**ALBRECHT:** Thank you. Sorry about that. I was out in the hall, out in the hall, visiting. Thank you, Speaker Hilgers. You know, I know that there's a lot of things that happened this morning that I know if it was me, I'd be a little upset about it, but I believe that minds will prevail over lunch. They will come together and do the right thing for the teachers in our state, for the students that attend our schools. You know, this bill is important to a lot of us, all of us, the whole bill. LB529, it was evident that there was a lot of work that went into it and a portion of AM719 is within that bill. So I think everybody needs to-- we're all going to go into a lot of Exec Sessions over lunch, but we need to take that 15 minutes to go back and look at the bill, see what's in the bill and how does whatever's in the bill complement what Senator Murman is trying to do with AM719 and is it enough? Because, you know, again, this is my fifth year. I have heard all about the 7,000 teachers throughout the state of Nebraska that asked us for help and we haven't been helping them. In, in that arena, we have not been helping them. We have had teachers decide to retire early because they just can't take it anymore. They can't protect themselves. They can't protect their students. Come on. I mean, we have got to come together on this bill and do what's right for the state of Nebraska. Our families need this. Our teachers need this. All I'm asking is-- you know, I'm, I'm not OK with, with things not

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working out the way they should, but I am confident that over the lunch hour, something can be done that moves not only this amendment forward-- if it's not-- if it's, if it's enough that what's in the bill is-- works, that's great. Then we can move on and go on to other business. But let's think about these teachers. Let's think about these students. I've seen enough information to know that something has to be done here. You take a young girl that was beat up in the, in the school lunchroom and everybody-- it was like a big circle. It was like Entertainment Tonight. Let's just watch her just get her butt kicked. Are you kidding me? And nobody could step in? I'm out. We have got-- I mean, I've got 13 grandchildren. Do you think I want them to have to go into a situation like that and, and their own teacher or anyone around, an adult can't intercede because we just don't want to touch any of them, we just don't want to get involved? I don't want them to get hurt. I don't want our children to go home afraid to go to school. We have an obligation here and I will be getting in the queue to ask a lot more questions, but at this time, I'm not going to put anybody on the spot. I'm not asking any questions, but I am here to say that something better happen between now and the time we come back to intercede with this, this bill because it isn't right. What, what's taking place is just not the way Nebraska should do business--

**HILGERS:** One minute.

**ALBRECHT:** --and we're better than that. And we are asked by the people that we are voted in by to come down and get the work done. And to get it done, it means a lot of compromising, but we also have to make sure that we get through this with the students and the teachers so that we don't lose-- I mean, it's, it's like rioting. Why would you want to be a police officer if we're not going to give you the tools? Why would you want to be a teacher if you don't have the tools to teach? So let's get after this and get something done after lunch. Thank you.

**HILGERS:** Thank you, Senator Albrecht. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Amendment to be printed to LB503 from Senator Flood. A series of confirmation reports from the Business and Labor Committee. A series of name adds: Senator Bostar to LB108; Senator Blood to LB392; Senator Clements to LB398; Senator Matt Hansen, LB463; Senator McCollister to LB639. Announcement: the Revenue Committee will meet today in Executive Session at 12 p.m. in Room 1524. Health and Human Services will meet at noon in Room 1510. Finally, Senator Briese would move to recess until 1:30 p.m.

**HILGERS:** Colleagues, we have a number of senators in the queue. We will keep the queue for when we come back to AM719 after recess.



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Senator Lathrop, Senator Wishart, and Senator McKinney are the next three in the queue. Colleagues, you've heard the motion to recess. All those in favor say aye. Opposed say nay. We are in recess.

[RECESS]

**HILGERS:** Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

**ASSISTANT CLERK:** There is a quorum present, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Do you have any items for the record?

**ASSISTANT CLERK:** Not at this time.

**HILGERS:** Thank you, Mr. Clerk. We will proceed to the first item on the afternoon's agenda.

**ASSISTANT CLERK:** Mr. President, when the body recessed at lunch, Senator Murman had offered AM719. Senator Morfeld had raised a point of order.

**HILGERS:** Thank you, Mr. Clerk. Colleagues, before we broke for lunch, Senator Morfeld had raised a point of order as to whether under Rule 6, Section 3(h), LB719 [SIC] was substantially the same as LB673. LB673, as I informed you and you heard when it was read across, had been indefinitely postponed by a vote of the Education Committee here this morning. I will announce my decision in a second. I do want to let you all know that I have considered the bill-- a careful analysis to the amendment as to the bill. I've spoken-- have had numerous conversations with a number of senators, including Senator Walz, Senator Morfeld, Senator Dorn, and Senator Groene. I've considered the text of the rule and the applicable precedence and a number of other factors. When I read Rule 6, Section 3(h), the question is whether or not the amendment is substantially the same as the bill. The question, in my view, is focused on whether the amendment was part of what was indefinitely postponed. So the focus of my inquiry, not the exclusive, but a primary focus of my inquiry was whether or not there was new material in AM719 that was not included within LB673. A careful review of that amendment makes clear that nearly every line of AM719 is included within LB673. For that reason, as well as some other reasons, it is the ruling of the Chair that under Rule 6, Section 3(h) that LB7-- A-- I'm sorry, AM719 is substantially the same as LB673. And therefore the motion to amend AM719 that is before the body now will

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require three-fifths of the elected membership. In other words, 30 votes in order for, for that motion to be adopted. Turning to debate on AM719, we have a number of senators in the queue, including Senator Lathrop, McKinney, Linehan, and others. Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President. And colleagues, good afternoon. I actually turned my light on to talk about the pending motion. And now that the Chair has ruled and there's no motion to overrule the Chair, I guess I'll spend this time just saying that I support LB529, the Education Committee amendment. I do oppose AM719. For all the reasons that we discussed last year, I feel like this is sort of Groundhog Day when it comes to Education bills, that, that every time one of these things comes to the floor that we, we end up debating LB417 all over again. And for the reasons that we've all addressed last year and because this bill was not prioritized, nor did it come out of committee, I'm going to oppose AM719. Thank you.

**HILGERS:** Thank you, Senator Lathrop. Senator McKinney, you're recognized.

**McKINNEY:** Thank you. I rise against AM719. I just find the amendment very troubling. See no reason why teachers and administrators and other school staff should have immunity if they slam a kid. Just think about it, I'm a parent and other members of the Legislature are parents. If your kid is at school and gets slammed by a teacher or administrator or other staff and break their calibur-- collarbone, no one is going to be held accountable for that. Senator Groene, you mentioned earlier that you weren't picking at me, and I really don't care if you was picking at me because this is something I'm passionate about and I'll stand up here all day if I have to to fight it. Senator Murman, would you yield to a question, please?

**HILGERS:** Senator Murman, would you yield?

**MURMAN:** Yes.

**McKINNEY:** Can you define what is reasonable and not reasonable in this amendment?

**MURMAN:** Reasonable is the term used in case law that has been used in the past, so it is defined in Nebraska case law.

**McKINNEY:** Can you define it in a situation where a teacher slams a kid? What is a reasonable slam?

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**MURMAN:** What is a reasonable slam, did you say?

**McKINNEY:** Yes.

**MURMAN:** There would be no such thing as a reasonable slam. Specifically in this bill, corporal punishment is not allowed and corporal punishment is, is punishment that would be used to induce pain. And that is specifically not allowed in this bill. The training is all about using the least restrictive-- first of all, de-escalating the situation as much as possible. There's, there's a lot of steps in the training, I went through them earlier. But in the end, if nothing else works and it is an emergency situation, absolutely necessary and reasonable physical intervention can be used only to protect other people in the school or to-- if, if, if the student is threatening with an object would be the only reason that a student could be--

**McKINNEY:** Senator Murman, so-- OK, let's not use slam. Say a teacher grabs a student and restrains them and the student feels like it's harmful and it hurts and it may leave a bruise. Is that reasonable?

**MURMAN:** No, that would not be reasonable. And, and as I said, that is the whole reason for the training in the bill.

**McKINNEY:** So-- sorry to cut you off, but here's my question. Any time a, a teacher, administrator, or school staff grabs a student, no matter if it's soft or with force, the student could say that they, they-- it hurt and it was harmful. Would you say there is immunity for that? Because how you grab me, I, I may say it doesn't hurt, but for somebody else, it hurts. So is there immunity for it or not?

**MURMAN:** No. If it is not reasonable and necessary, absolutely necessary, there is not immunity for it.

**McKINNEY:** But that gets to the point. Who, who's defining reasonable? Because what hurts me doesn't hurt you and--

**HILGERS:** One minute.

**McKINNEY:** --the teacher may say I grabbed a student reasonable, but the student may say it hurt. Is the, is the teacher going to be left off the hook?

**MURMAN:** No. In that situation, you know, according to the bill, it would have to be reasonable and necessary. But if that is disputed, you know, it would be up to the courts to decide and--

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**McKINNEY:** How, how do you dispute when in statute this would create immunity?

**MURMAN:** There is no immunity if it is not necessary and reasonable.

**McKINNEY:** Well, who is that left up to? Is it the, the teacher or the fact finder in, in the courts?

**MURMAN:** Well, if it was taken to a court of law, it would be up to the courts to decide if that-- if it was necessary and reasonable.

**McKINNEY:** OK, thank you. So I just honestly think this, this amendment is pointless because it should be left up to the courts to--

**HILGERS:** Time, Senators.

**McKINNEY:** All right. Thank you.

**HILGERS:** Thank you, Senator Murman and Senator McKinney. Senator Linehan, you're recognized.

**LINEHAN:** Thank you, Mr. Speaker. Good afternoon, colleagues. I'll make a confession. This morning when we Execed on the Education bill and were asked to IPP Senator Murman's bill, I did not understand the consequences. I didn't vote for it because I didn't understand the consequences. But my recollection is I asked directly to the group what does this mean, why are we doing this? What-- why would we-- what-- what's the outcome of this? Now, either nobody in that group understood that that meant we needed 30 votes or no one in that group told me what it meant. So I'm not very happy with that situation. Now, the truth is, the outcome would have been any different because there were five votes to IPP it. But when we ask other colleagues in this body what happens if we do this and we don't get straight answers, that's a problem. Well, I have the floor. So am I to believe that when we IPPed it this morning and like an emergency Exec under the balcony, nobody knew that it was going to take 30 votes? Maybe that's-- it's-- you know, I, I do trust people and I've even been called gullible, but I'm not quite that gullible. Further on the bill itself, no administrator, no teacher should slam a kid. That should be absolutely not what we're allowing people to do. But on the other hand, I don't want my children, grandchildren in a school where some other student would decide to beat the hell out of them and teachers stand around and watch it. The truth is this shouldn't even be in the Legislature. What is the situation when we have schools, teachers-- and we all know the teachers, teacher unions strongly supported this last year because they do get beat up. They do feel like they're threatened and they

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don't feel like they have the guidance as to what to do. We all saw the film with the girl getting beat up by another student and four or five adults standing around watching it. We have a problem here. So I think minds need to come together and figure out how we move forward. None of us should hold absolutely on to what we have to have, but what do we need to do to protect kids so they're not getting slammed? Which I think I've heard enough from Senator McKinney this morning, there's a-- he has an issue. He's talking from the heart. He's talking from personal experience, so that's a problem that we need to be concerned about. And we've heard enough from teachers and others and watched a film, for goodness sakes, that we know we have a problem with nobody thinking they can stand in. So the reason this is in the Legislature is we have a problem that the schools aren't addressing. So we need to figure out a way to go forth here and make it work for everyone. So thank you, Mr. President.

**HILGERS:** Thank you, Senator Linehan. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr.-- Senator-- Mr. President. I'm embarrassed to be part of this body. We met-- some of you met earlier about collegiality. I wasn't invited. I don't think Senator Murman was before this body got together. Senator Murman was asked and I was by the Speaker, drop your amendment early so people can look at it. If we played by the rules that were played against us, we should have dropped it about right now. Right now. So a panic call of the committee-- I must be a really bad guy if what's going on in that committee now is more collegial. That's what we should have done and waited, dropped it on top of it. No, we didn't do that. Senator Murman expected his amendment to follow the process and be voted on and get 25 votes. Maybe we ought to change this rule. If a bill is IPPed prior to an amendment being dropped, then the rule takes effect. Just like in society, we have to pass rules to keep the bad characters from being bad. This amendment had the support and they knew it of the majority of the elected senators in the state of Nebraska. And shenanigans had to be played to do the right thing for the people in Nebraska. If this amendment loses or what happens, I don't-- I've learned not to worry about myself. I don't lose, people in Nebraska lose because of a special interest here or one over here that misleads the-- their constituents and they send emails about special education students being harmed. Senator Murman is trying to protect them. As far as the "reasonable," that was put in there after consultations with Senator Lathrop. As a trial attorney, a past president of the Trial Attorneys Association last year, it was his recommendation to put it in there. After it was put in there, a form of that in a

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similar bill last year, the trial attorneys agreed not to oppose the, the language. Let me tell you what's reasonable, kid comes to school with a gun, 120-pound teacher jumps on their back and knocks them to the floor in a prone position. Let me tell you, that's reasonable. And if my grandkids were in that room, that's reasonable. If a young child just misbehaves and throws a chair and a teacher does that, that's not reasonable and it doesn't follow the codes of the school, then they're fired or the parent takes them to civil-- to court and they're arrested. Our society's criminal law balances on that word "reasonable" in many, many cases. All this bill did was say when a teacher is disciplined or fired, the administration has-- and the school board has to follow the same rules we use in criminal law, reasonable. I don't know who I'm talking to because some people are just blinded. You think common sense and reason as Senator Linehan was talking, and she doesn't get riled up often, people would listen. We're trying to protect teachers here, we're trying to protect children here, and we get shenanigans from the Education Committee--

**HILGERS:** One minute.

**GROENE:** --that pulls a IPP motion after an amendment was dropped with no warning. Senator Murman did not vote this bill out of committee. He told him what he wanted done and he brought an amendment. That is legitimate. The rules are there, that is legitimate. This rule on the IPP was legitimate, but it needs to change if people are going to twist it and bend it like this. I guess mores have changed. Apparently when they put that in there, there was more collegiality in the body. Thank you.

**HILGERS:** Thank you, Senator Groene. Senator Vargas, you're recognized. Is Senator Vargas on the floor? I don't see Senator Vargas on the floor. Turn to the next speaker in the queue. Senator Pansing Brooks, you are recognized.

**PANSING BROOKS:** Thank you, Mr. Speaker. I rise in support of the decision made by the Speaker today. The bills are substantially the same. When we met this morning under the overhang as an Education Committee, there were a number of us that expressed a desire and wish not to IPP this bill. In fact, I had worked and supported another version and another concept of this bill. And if you look at the, at the history and the committee statement, you will notice that only one citizen came in support of this bill, no teachers, no administrators, no school board members, and no other people from the Education Committee. Why is that? If they're all so supportive of this and want to protect teachers, why did they not come out to speak on this bill? Senator Murman introduced the bill and there was one individual who

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spoke in favor, no one else. What happened is people know what happened in the past two years. And I'm, I'm going to reiterate it a little bit. When we first heard this bill in 2019, I had serious concerns about it, as did many others. But I believe that the teachers had valid concerns and did not believe they were receiving the proper clarity or training on how to handle school disciplinary problems. So during the discussion in committee in 2019 when the bill was stuck in committee, Senator Walz and I pledged to Senator Groene that we would try to help to reach some consensus on the bill. I suggested he work with and communicate with many of the child advocacy groups who are trying to come to some-- to try to get to some agreement with the teachers and the administrators to make sure the children were protected. At my specific request, the child advocacy organizations agreed to meet with Senator Groene, even though they were all unified in their opposition to the bill because of protections for children, because of the concerns about how to make sure that children were not in danger. So I insisted, though, that, that these groups, these, these child advocacy groups come to the table and work with Senator Groene, the teachers, and the administrators to work on a compromise. And although not all the child advocacy groups were happy, we did come up with an amendment. Senator Walz was with me. It was AM1750. It was drafted by the teachers and the child advocates and addressed some of the concerns that some of the advocates had. It was not perfect. As Senator Linehan has said, it was not perfect. But again, everybody had to give something. But as happens with bills, it was opposed by the administrators still. So-- and in fact, they walked out of a joint meeting within ten minutes after the start of the meeting. Those administrators, to their credit, had been willing to work on a compromise up to that point, so I was disappointed and saddened when they walked away, but I was willing to continue to work with the introducer and the committee to continue negotiations. But instead, as many of you know and some of you who are new may not know, it was pulled from committee. And then AM1803 was introduced, which substantially is similar to this amendment, AM17 [SIC]. These amendments did not include any input from the child advocates who were concerned about protecting the rights of the child and did not conclude the protections that were added in--

**HILGERS:** One minute.

**PANSING BROOKS:** --the previous amendment. So everybody worked on this and tried to find out the best way to do it. And there was a great deal of leadership from the, from the attorney on the Education Committee, but I wasn't in the room when all the terms were hashed out. But at that point, NSEA was on board. All sorts of the

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educational organizations were involved. Why did they not come and support Senator Murman's bill? That's what I will ask you and I, I may be up again. Senator Murman did not prioritize this bill. He had tons of opponents if you look at the, at the history. I think it's important for us to understand something has changed. Yes, we need to protect teachers. We need to protect the children. But I stand in support that this bill is substantially similar and I ask that you support the Speaker's decision. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Pansing Brooks. Senator Murman, you're recognized.

**MURMAN:** Thank you very much, Speaker Hilgers. I'd first like to say I really appreciate Speaker Hilgers and his decision that he had to make. These decisions are really tough. I'm, I'm glad I'm not in that position. Also, I appreciate Senator Walz and the committee for bringing this bill and making it one of the Education Committee's priority bills. We both-- all of us want to do what's in the best interest of both the students and the teachers. I believe that this amendment could, could make the bill better. And that's why I brought it. I had no intention of pulling a bill out of committee. I know Speaker Hilgers had, had to rule that, at least the way our rules are stated, that he ruled against me. So, so I respect that decision. I'm a farmer, not a lawyer. So I don't know exactly how these legal matters work, especially some of the things we do here in the Legislature. Of course, I'm a little bit inexperienced too, only being here two years. So, so just need a little more time to, to learn the system. But there's many good things about the underlying bill, LB529, and the amendment, AM495, from committee. But AM719, you know, with the training funding that I brought with LB998 last year, I thought made a really great bill. It had training in it. And of course, the purpose of the training is to mitigate as much as possible and, and ideally eliminate any situations where students would need to be-- physical intervention would be necessary. But we live in the real world. We know that no matter how good our schools are, and I do think we have great schools in Nebraska, these situations do happen. And I don't want school employees standing there like-- I'm not sure which senator represented the-- I guess it was Senator Linehan brought up the social media film that was-- that circulated last year. I don't want school employees standing around and, and hesitating to intervene to keep someone else from getting hurt seriously. And of course, I do totally understand Senator McKinney's concerns with racial inequities. I know there have been studies that have found that those kinds of things occur, but the whole reason for the training is that we can improve those kinds of situations where race is not a factor in why



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students are pulled from class or physical intervention becomes absolutely necessary and reasonable. As far as the disability groups, I've spoken with several disability advocate groups on both the state level and even the national level. Just last night, I did even do a Zoom with a national level advocate that does--

**HILGERS:** One minute.

**MURMAN:** --thank you-- that does have ideas on how this amendment could have been made better, even though he totally supported the amendment and he's doing his, I believe, master's in education-- in special ed and education. As far as why the teachers weren't there in the hearing and, and other education advocates, they knew from the setup of the committee that LB673, which, by the way, is, is not what this bill is, this amendment is, it has changed since then. But they knew that wasn't going to come out of committee. LB529, with everything in it like we had last year without the physical intervention part, would be what's come out. So that's why they weren't there. We did get 32 votes last year on a very similar bill.

**HILGERS:** Time, Senator.

**MURMAN:** Thank you.

**HILGERS:** Thank you, Senator Murman. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker. And I, I didn't know we were voting on the Speaker's decision. I thought that was final. But as I listened to what Senator Linehan said, and I thought she did a fine job of explaining it, I'm very disappointed. And I was wondering if Senator Walz would yield to a question?

**HILGERS:** Senator Walz, would you yield?

**WALZ:** Yeah.

**ERDMAN:** Senator Walz, when you had your Executive Session, did Senator Linehan ask what does this do if we IPP this bill?

**WALZ:** I do not remember the entire conversation. I do know that Senator Linehan asked why we wanted to do this.

**ERDMAN:** What was the answer?

**WALZ:** The answer was because it was-- it's an unfriendly amendment. There was no notification to the committee that this amendment was coming. This amendment was a bill that did not get out of committee.

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**ERDMAN:** OK. When was the amendment--

**WALZ:** There are several reasons why.

**ERDMAN:** --when was the amendment placed in the queue? When was it adopted-- dropped in? Do you know? Was it this morning?

**WALZ:** It was yesterday.

**ERDMAN:** Yesterday. So your committee knew about this yesterday and couldn't have an Exec-- an Executive Session yesterday?

**WALZ:** It was so late that no, we couldn't.

**ERDMAN:** So--

**WALZ:** I know that there were several of the committee members that were not available.

**ERDMAN:** OK, when did you have your Executive Session?

**WALZ:** This morning.

**ERDMAN:** What time?

**WALZ:** 9:30 a.m.

**ERDMAN:** OK, so the bill had already been up and you knew it was coming to the floor so then you had an Executive Session to IPP it. Is that correct?

**WALZ:** Correct.

**ERDMAN:** All right. So were you aware that it was going to change the vote from 25 to 30?

**WALZ:** Yes, I was.

**ERDMAN:** Do you think from Senator Linehan's comments that she did not know that?

**WALZ:** I did not know she did not know that.

**ERDMAN:** OK. All right. Thank you.

**WALZ:** Um-hum.

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**ERDMAN:** It's disappointing that it came to this. And I understand how, how it works. So maybe the other committees in the body that have bills that are going to be a amendment, maybe you need to rush and have an Executive Session to IPP those as well. That's not how this is supposed to work. And what Senator Wayne, this morning, the comments he made about LB529, Senator Wayne, I couldn't have said it better myself. And so at some point in time, we're going to have to start looking at what the ESUs actually do and what the learning community does and some of these other things. And we need to make a decision going forward on what kind of education system we're going to have in the state of Nebraska. And I can tell you right now, the ESUs have run amuck and it's time to make a decision on how we educate young people and the duplication of services that are offered by schools and ESUs. I think when LB529 comes back up for discussion, we extend the sunset date and move on. LB529 is creating a whole bunch-- a whole lot of more cash funds. LB529 will be advertised as being a simple cleanup bill. It's what we do here, we say this is just a cleanup bill. It's got like ten new sections and adding cash funds, but it's just a cleanup bill. It's not a cleanup bill. It's a duplication of services that are going to give money to the schools and the ESUs or whoever wants it to do what? And so I am opposed to LB529 and I am in favor of AM719. Thank you.

**HILGERS:** Thank you, Senator Walz and Senator Erdman. Senator Lowe, you are recognized.

**LOWE:** Thank you, Speaker Hilgers. Well, my future daughter-in-law is a teacher and she teaches troubled youth. So I feel for her that we are not looking at AM719 and that some of you are standing up against AM719 because she needs everything at her disposal to teach these youth. An SRO officer is not always readily available when a youth goes off. It's up to the teacher then. As we were having our tornado drill this morning, a constituent walked into the Capitol and he asked me what we were discussing. And I said we were discussing the fact that we would like our teachers to be able to control their classrooms. AM719 was already dropped at that time. And he said, that's good because my wife is a teacher and three times this last week, she had to remove her class from the classroom to the hallway and down the hallway to wait for the vice principal to come and remove that student, three times. Three times you miss out on your class in this very COVID year we're having. Our students are already struggling, our teachers are already struggling with this, and here we want to allow that to happen even more. Senator Pansing Brooks brought up a, a good point, that the teachers did not show up for the hearing on this bill. My hope is that they were teaching their students

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because that's what they are to do. Administration can take time off and come down and do this and it's part of their job. Teachers are supposed to teach. Maybe we need a few more here. You know, it happens in the business world too. We get all sorts of lobbyists and, and advocates for some of our bills, especially when they go against the business world because they know the business world cannot show up because they are doing business. So let's not look at what shows up to our committee hearings, especially this year, when we told people, please send letters, don't show up. Let's look at what betterment can be for our students. Not the one, but the many. The many who are missing out on class time as we have this discussion here on the floor once again. And every week, hundreds of students will be put into hallways of our schools and taken out of their classrooms because a student can't control themselves. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Lowe. Senator Dorn, you're recognized.

**DORN:** Thank you, Mr. Speaker. Good afternoon, colleagues. Had not intended to speak on this bill, been watching and seeing what all has been going on and all that's happening. More of my reason for getting up was when Senator Pansing Brooks made a comment that there was only one that testified, I guess, in favor of Senator Murman's bill. Want to relay a little bit of what-- why I supported this in other years and the conversation I had with not only teachers, but administrators in my district. Specifically, I had-- and, Senator Brooks, this is the answer I'm going to give you for why people didn't show up is I specifically in the last two years have had three separate conversations with three different teachers that I have known. And every one of them told me how important it would be to have this bill. I asked them some of the same reasons or comments that you did. Why aren't we hearing more from teachers about this and this concern? Every one of them had the same answer for me, that they were afraid of the repercussions, they were afraid of administration overseeing what they were doing, and they were afraid of what might happen from that aspect. When I did-- part of the conversation I did have, though, too was with the administrators in my district. Why, why are you opposed to this bill or why are you supporting this bill? And why do we have teachers that feel that way about being-- I call it reprimanded or maybe talked to about coming forward and commenting on it? Not all of them, but several of them commented on the fact that they were concerned about lawsuits. They were concerned about what would happen when they made this decision or this decision. I think part of what is through this whole process that I hear the discussion today and I really want to challenge, I guess, the Education Committee, I don't see this issue or this topic ending when we vote up or down on this

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bill. There are still a lot of those concerns out there. I think Senator McKinney made some very, very valid points. How do we make sure that that student has the necessary things in place for them? But how do we also make sure that through-- I call it through the whole system, the school boards, the administrators, the teachers, how do we make this the best possible learning place for everybody involved? I quite often sit in this body and I know we've talked about how many-- I call it lawyers are here or how many farmers are here or I ask people what they do for a living. I'm not sure, but I don't think we have a teacher or a former teacher in this body. I know with Senator Kolowski, we had an administrator here and I could easily be wrong about a teacher. And if I am, I apologize for that. But-- well, oh, Senator Walz, I apologize for that. Yes, I do. But we don't-- we, we have so many of them in the body, like lawyers and other things that quite often will stand up and bring their perspective to bills or to a discussion. Senator Walz has done a very, very good job of bringing her perspective as a teacher--

**HILGERS:** One minute.

**DORN:** --to this discussion. Thank you. But I-- the last-- I guess the last comment I want to make is I challenge the Education Committee and the senators here. I don't think this issue goes away with an up or down vote. There are things that still need to be worked out here. I hope we as a body that the state looks up to has the ability to do that. We need the right leadership to get that done. I hope we continue working on that. Thank you.

**HILGERS:** Thank you, Senator Dorn. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. Speaker. I guess I spend half my time correcting the record. For your new senators, what happened last year in committee was I turned it over to Senator Walz and Pansing Brooks to coordinate talks with the special education community, the teachers union, school boards, and administrators. I stayed out of it and they had a few meetings. I was invited to them and we discussed. What came out was then, as she said, AM1750. Did you hear that? Agreed. AM1750 came out, but the administrators walked out of the room, so did school boards. They would not support it. So it was brought to me later by the administrators and school boards, if you bring this, if you bring LB147-- and we've got a letter, we could pass it out from last year, and the school-- and the teachers union was on board. That we-- if we did this, they would support it. And they did, they kept their word all the way through the debate, school boards, rural school boards, teachers union, administrators. But we went to committee with the understanding we had five votes if we adopted that. But Senator Walz

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and Pansing Brooks brought up to me that if they would support AM1750-- if I took that, they would support the amendment and the bill. And here's more collegiality. I'm the one that's not collegial, but here's what happened. So I took-- instead of having one in the hand, I took the two in the bush option, which you're not supposed to. We voted on AM1750 in committee. It was voted 7-1 to amend it to the bill. We went to forward LB147 to the floor and the vote became 4-4. Collegiality. I bent over backwards. But there are senators who didn't support me on Education Chair because they said I wasn't collegial, that's fine. I'm glad I'm not Chair. I can get more done here. This isn't over, this isn't a filibuster. But as Senator Erdman said, at the end of the day, we can just put an amendment on or put an amendment on another bill that we extend the, the sunset dates on the lottery. That might be what we need to do. But there will be work on Select and we'll work with the committee. We had 26 or 27 votes, but one of them is wavering on us now, but we have enough votes if this wouldn't have been IPPed to do the right thing for the state of Nebraska. But a minority, stubborn minority, put their heels in the ground again and would not work with the rest of-- the majority. So Nebraska, are you listening? There are some in this body who do not care about protecting teachers and children in the classroom. They do not care. They think of policy. They take sides on personalities, not on the issue before you. Remember that. There are elections to come. There are those who wish higher office. Remember-- and always I love those cameras because I get a lot of comments from Nebraskans. What's going on down there? What's going on down there? Don't they listen to us? And I say no. They listen to the lobby. They listen to the lobby who lie and cheat and then go back to their constituents and tell them look, you needed me because look what I got done for you. They are paid henchmen and I have to admit it. There are a few, few--

**HILGERS:** One minute.

**GROENE:** --good ones, but I very seldom talk to them anymore because I talk to the people and so do a lot of us. A lot of you do. Senator Dorn just said he did and he made his commitment to this amendment and to the bill last year because he talked to the teachers and not the lobby or the administrator. So at the end of the day, I'm not filibustering this, but there's always Select and there's always Final. And this collegial senator will work with the committee and I'm sure Senator Murman will too. We won't trade any votes. So that stops the conversation. A lot of that's been going on already. But we'll look for common ground to protect the teachers and the children in the classroom. That's what Nebraskans want. That's what Nebra-- and they own the schools.

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**HILGERS:** Time, Senator. Thank you, Senator Groene, and that was your third opportunity. Senator Murman, you're recognized and this is your second opportunity.

**MURMAN:** Thank you, Mr. Speaker. I'd just like to comment that I didn't know either, as Senator Walz, that the IPP motion in committee that was called-- that the Executive Session that was called at the last minute this morning, I didn't realize that was going to force a 30 vote on this amendment. And so I and Senator Linehan and, and I, I know at least one and maybe two others on the committee didn't know that, so that's four out of the eight on the committee didn't realize that. But with that said, there is a lot of support for this bill-- or this amendment, excuse me. And this bill, by the way. Last year, a similar bill got 32 votes on this floor, as I mentioned already. So there's a lot of support for this bill among educators, teachers, and Nebraska citizens. Right now, this year, the AM719, according to my vote count, I had at least 26-plus on this floor that would vote for the amendment, so. Last year we had one vote short of two-thirds. This year we had well over-- well, I shouldn't say, but over half would, would vote for this amendment. So we had the votes and, of course, the support of Nebraska citizens. And I was addressing the number that showed up for the hearing, it was a snowy bad weather day. Teachers, of course, would have had to most likely take a vacation day to come in. And then also they would risk administrative reprimand, which, by the way, AM719 would have avoided, for coming in to testify, so. And, and, by the way, last year, the similar bill, as Senator Groene mentioned, did have the support of the school boards, the administrators, and the teachers, so we had broad support last year and, of course, this year. I plan on bringing a bill on Select that will do-- accomplish what needs to be done. Again, it's, it's a friendly bill that-- or a friendly amendment-- excuse me, amendment that will make the bill, LB529, a better bill. So I'm, I'm going to follow the rules and bring it on Select. And with that, I would like to pull my amendment.

**HILGERS:** Without objection, AM719 is withdrawn. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next, next amendment is from Senator Walz, FA11.

**HILGERS:** Senator Walz, you're recognized to open on FA11.

**WALZ:** I'm going to withdraw that amendment.

**HILGERS:** Without objection, FA11 is withdrawn. Mr. Clerk.

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**ASSISTANT CLERK:** Next amendment. Senator Groene would offer AM731.

**HILGERS:** Senator Groene, you're recognized to open on AM731.

**GROENE:** Thank you. I'm bringing this amendment to start a conversation to make sure we understand that it'll be there for the future. In LB529, we are doing something we haven't normally done in this body. When the ESU, Educational Service Units, were created, I always give the analogy they were created like a library where the members of the Educational Service Unit, usually around 16 or more schools, if they needed a resource that they wanted to share with others-- it used to be back in my day they had these televisions and these VCR players that schools would borrow then it was up to local control to go to the ESU and ask for some assistance. This bill starts a dangerous precedent where the money is given to the ESU, the Educational Service-- Educational Service Council, whatever it's called, and instead of directly to the school districts, where local control decides what training they do. So my amendment strikes, no longer gives it to the Service Unit Coordinating Council. Strikes that ESUs can receive the funds and adds: The department shall-- and replaces it with the department, which meaning the Education Department, shall distribute money in the fund proportionally to school districts based on the most recently available fall membership numbers for behavioral awareness and intervention training required pursuant to Section 4 of this act, which goes on to distribute it. That's local control. Funds being controlled by the local school board to decide how they want and who to train-- who will train their teachers. Do we want-- if we're going to go the trend top down that we give more power to Department of Education, more power to ESUs, and create a statewide system where all children are taught by the same rubber stamp, morals and beliefs and local, local interests and beliefs and mores [SIC] are not able to be taught in our schools, then this is a good start. This is a good, incremental, incremental attack on local control of school systems. Is that what you want? Is that what your constituents want? I don't. My constituents don't. So I would appreciate support of AM731. Like I said, I don't want a long debate. If you want to vote on it, fine. If you-- if it gets too late here, I'll pull it. See, I'm just up front, too dang honest. I don't sneak around under the balcony. Maybe I should have stayed on that committee and Senator Linehan would have had some-- well, Rita is doing a good job. I shouldn't say that. But if you want to start down that road-- because the elite on the left know what's best for your children, then support this LB529. I'm a red on LB529 until something is changed in this bill. Thirty-two conservative, so-called conservatives in this body and there's five liberals out of eight on the committee. How did that happen? I could



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tell you how it happened, but I wouldn't go there. Anyway, just because that committee brings something to the floor does not mean it reflects the majority of our, of our members in this body. Committees do not tell us what to do as a, as a debate forum on this floor. You have every right to bring amendments that are unfriendly, friendly, or whatever. That is what we do here. We bring amendments and we pass bills for the people of Nebraska, not for another member of the body. So we'll see where this goes. And I appreciate your consideration on AM731. Thank you.

**HILGERS:** Thank you for your opening, Senator Groene. Debate is now open on AM731. Senator Walz, you're recognized.

**WALZ:** Thank you, Mr. President. You know, I thought maybe I should get up and talk a little bit about the intention of AM495. We have had discussion after discussion after discussion on behavior intervention and mental health for kids. And I'm going to-- I'm just going to let you guys know, first of all, I, I am a teacher. I have been in a teacher position. I know Senator Pahls has, has been in, in education. But what we did as a committee and what I did as a committee chair was very, very intentional. I have people standing up and acting like, you know, we don't understand that there are kids that need mental health help. We don't understand that there are kids that need behavioral help. We're not here to support our teachers. Well, I'm definitely here to support my teachers. I just want to do it in the most effective way possible. Two thousand dollars to each school is not the best way to spend money. Two thousand dollars per district is not going to get you the discipline, the behavior training that you need. That's not even going to come close to what you need. I was very thoughtful when we were looking at how do we provide the very best training to our teachers that we can and the ESUs were the most commonsense and sensible answer to that question. ESUs already have resources on the shelf. That was a question that Senator Linehan, that was one of her concerns. I want to make sure that they're not developing a new program. We asked them and, and they have everything that they need to start training our teachers immediately. And the way this would work is that the ESU would initially visit every single school district and they would come up with a behavioral training plan. That could include bullying, that could include dating violence prevention, child abuse. That is not the right paper that I wanted to look at, but they had every single training that they need available. Mandt, CPI, Boys Town, de-escalation training. So that took care of Senator Linehan's concern. The, the bill is very intentional. The bill was thought through. The bill makes common sense. Senator Murman, would you stand up and answer a couple questions?

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**HILGERS:** Senator Murman, would you yield?

**MURMAN:** Certainly.

**WALZ:** Senator Murman, can you tell me exactly--

**HILGERS:** One minute.

**WALZ:** --what resources are available to school districts today that would allow them to start training their teachers? What's on the shelf that they have that they can use?

**MURMAN:** I know that some training is done by some school districts or by probably most school districts in the state. There are some school districts in, for sure in the Omaha area, possibly even outside the Omaha area that do use the Boys Town model. And I believe some others around the state use some of the other models that you mentioned: Mandt, CPI, and others.

**WALZ:** And what does that process look like?

**MURMAN:** I don't know exactly how it is done in each school district right now, but I know in the LB529--

**HILGERS:** Time, Senators. Thank you, Senator Murman and Senator Walz. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. Speaker. I want to talk about process for just a minute and, and what we just went through. I'm not speaking one way or the other, whether it's right or wrong. First say the Speaker made a ruling and I-- and we will abide by the ruling. But my concern is this, is that if we're going to-- when we started this session, Transportation and Telecommunications Committee IPPed some bills in, in committee before we were even on the floor. There's a large number of people in this body who stood up and chastised the committee for doing that. Now we have an IPP, some of those same individuals IPPed a bill of Senator Murman's this morning. And what I want to speak of is if you want to do that, fine, that's your prerogative. You can do that as a chair. If I want to do that as chair, that's something that I-- maybe I'll do in the future. But what I want to cautious us on, on this, what concerns me with this, is that I would like to know if there's amendments that are going to come to the floor. If you're going to have part of your bill that's not coming out of committee come to the floor, I would like to know what that is prior to the bill being opened on. Because now what I see happening, if someone has a controversial amendment or maybe if it's a bill that can't come out of

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committee and they want to amend something, we're not going to see that until the bill is opened on the floor. And that's concerning to me. So as we move forward, I'm just-- we've got to think about process. And the Speaker has been very good in providing us information of what bills will be coming up, should be coming up in the week. So we can look at those and we can see if there's amendments on those so we can study those amendments. We can look into those amendments. But now I'm afraid what may happen is we'll stifle that. And I'm very concerned about that and I hope that we don't do that. So I hope if you have amendments that you're going to bring that you go ahead and place them on those bills so we have time to take a look at them, so we have the time to make a decision, so we have time to contact people or others contact us. And if you have a bill that's in committee, can't get it out and you're going to amend it into a bill on the floor, well, now you're going to hold on to that thing until sometime in the debate on that bill once it hits the floor. And that may not be the best course of action for us all. So with that, again, I'm just talking about how we proceed from here. What happened has happened. We're at where we're at. But think about that as we go forward. I hope that we'll be able to continue to amend-- place amendments on file on bills as they come out. And I understand I may be for or I may be against it. It may not make me happy, but if that's a process we have, if that's something we want to do, that's fine. I think that's a good thing to do. I think that maybe we need to take pause as chairs to think about if we're going to do it the day of or the morning of or whatever it might be. We may want to just think about that a little bit and let's fight-- let's have the debate, let's fight the battle, if you will, on the floor. Let's talk about it. We have three levels of debate. We can work on it. And that's what's best about what we do is we work on bills and we make them better, if you will. We find compromises. But until we have that opportunity, that will never happen. So with that, I just hope that we'll be able to work together from here on out and be able to amend bills and bring bills to the floor that will give the body the opportunity to work on them as we should. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Bostelman. Senator Pahls, you're recognized.

**PAHLS:** Thank you, Mr. President. It appears that we're-- we've started to talk a little bit more about ESUs than I had anticipated, so I pulled up some of the information about them. I think it was stated earlier in the discussion that the, the Legislature did establish these in 1965 and there are 17 of them. So I went down and, and just strolled down to see what their core services are. And it surprised me

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a little bit. Maybe we do have some services out there that the schools are not using. And I'm just going to run through a couple of them. I think some of them have already been presented, but just let me read a couple of these. Crisis prevention intervention, traumas informed schools, youth and adult mental health first aid, support for students exposed to trauma, cognitive behavioral intervention, bounce back for elementary forum, school community intervention and prevention, psychological first aid for communities and schools. And it goes on and even one's called self-care for educators. And there are-- like I say, there are at least a half dozen and it's my assumption that these services are provided throughout the state. It is up to the schools to seek that help. I can remember at one time when I taught at Atkinson, Nebraska, which is out a little further west from here. If I needed something that the school could not afford to have, the school secretary would call up and say, OK, can you provide these-- this happen to me-- material? And those materials would be sent to us, sort of like on the checkout system. I don't know if they still do that because that was a couple of years ago and then we would send them back. All kinds of visual aids, books, etcetera, etcetera. Another thing, too, that they do provide, technology. It's interesting the number of things dealing with Internet, etcetera, etcetera. And it does say they do still provide instructional materials, online videos such as Learn360, EdReady. They also provide that individual schools could not have without these ESUs because you get further west, a school district cannot afford to have a PT, physical therapist, occupational therapist, speech and language. They could not-- just could not afford it. So you have to have some help from those ESUs. Then you get-- then there are other issues that, that they do help with. They also have a student record system. And here's one thing that I don't know if people realize, they can purchase materials in a large batch and it says, in this document here, it says that the ESUs bid all educational products to ensure students-- or excuse me, schools receive the best price. Last year, they saved the Nebraska schools over \$5 million. And I know in the metropolitan area, Omaha, as Senator Wayne indicated, it is its own ESU. The surrounding schools in ES-- ESU 3, they do get, they do get-- obtain help from the ESU. Instead of one district purchasing a few computers, they can do it as a-- all the schools around here get together so they can get a better price. So there are some benefits. But as I go back to the programs that they are offering, maybe we need to-- as school administrators and school superintendents, teachers, we need to take a look at, see what these ESUs have available for us right now to make us better teachers and administrators and help us deal with students who do need--

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**HILGERS:** One minute.

**PAHLS:** --additional help. Later on, I will talk about the services that they do provide also to private schools, but I'll do that when we are on the issue of private, private schools. But it seems like we may have some assets out there that we are currently not using. I don't know that for a fact, but if schools are having issues, there's something out there that they-- that I think they have the ability to capture. Thank you.

**HILGERS:** Thank you, Senator Pahls. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. And good afternoon, colleagues. Let me first by say I appreciate Speaker Hilgers' ruling on Senator Murman's amendment. And I do actually appreciate Senator Murman seeing kind of the mood of the body and withdrawing his amendment. I actually had my light on-- excuse me, my light on before that and wanted to address a few things, including some comments that have come up recently. First and foremost, the thing I want to hit on is I am not going to let supporters of that attempt to pull a bill out of committee as a hostile amendment and kind of cover your tracks and argue it's not the same bill, but also it is, get up and lecture the rest of the body about collegiality and process. That was a bald-faith attempt-- bald-faced attempt to pull a fast one when you realized what was going on. Just like Senator Bostelman said, other committees have IPPed bills and that has been discussed and defended upon on this floor this session, including Transportation and Revenue Committee. And in the discussion of the Revenue Committee, it was specifically said at some point, at least I remember it, that the bills were IPPed in part because they were worried they would come back as an amendment. This is a norm. This is a practice. This is something we know is the body. And I don't think it is a surprise that that's what the impact an IPP motion has because otherwise what's the point of an IPP motion if it doesn't actually change the bill or change the procedure? Two, let's not forget that the original AM this morning and this afternoon was an attempt to pull a bill that was in committee that they knew did not have the votes in committee, that was not prioritized, that has been hotly debated for multiple years now and attach it as a hostile amendment to a committee priority. Yes, that is something we allow in the rules. Yes, that is a procedure in the rules. I'm not saying it's not. But then to act like you're the ones who are obeying norms, who are obeying traditions, who are being collegial is ridiculous. We can stand by and allow everybody to get up and propose amendments they want. I am in strong support of that.

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Everybody gets the chance to speak. Everybody gets a chance to propose amendments and I don't think we should change that. But then to act like you're the one who's being collegial, to act like you're the one who's being in the normal course of business while trying to manhandle a hostile amendment on a very divisive issue into a committee package, a committee priority is disingenuous at best. It just simply is. Now I'm appreciative of the way we've gone this morning. I'm appreciative of the way we've gone. I think, you know, certainly amendments to change funding mechanisms or whatnot makes sense. I'm not going to be supporting Senator Groene's amendment, but I think that's, you know, much more normal in the course of debate. But if you're going to hide behind and get up on your, get up on your podium and talk and lecture about process, you know, look in the mirror first. Ask yourself truly what you're doing and if this was a do-or-die issue for you, why didn't anybody prioritize it? The same bill has come up, is been prioritized as pull motion before. That's not an abnormal thing. Now it's not. I would still argue and fight against that. But instead, you're trying to bring it as a hostile amendment on General File. You're threatening to bring it again as a hostile amendment on Select File. At least one person's alluded to bringing it on other Education Committee bills. At the same time acting like you're the ones obeying norms, being collegial is disingenuous to the body. It's disingenuous to yourself, it's disingenuous to all of us, and I would hope as we move this debate forward, we recognize that. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hansen. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker. Sorry about that. I listened to Senator Walz make her explanation about AM495 and I heard her say that we're not creating any new programs. So I was wondering if she'd answer a few questions for me?

**HILGERS:** Senator Walz, would you yield?

**WALZ:** Yes.

**ERDMAN:** Senator Walz, did you say that AM495 amended into LB529 is not creating any new programs?

**WALZ:** I did not say any new programs. I said that we wouldn't have to develop a new curriculum or develop resources because they're already available--

**ERDMAN:** OK.

**WALZ:** --through the ESUs.

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**ERDMAN:** It looks like on the back of the sheet that you sent out, the financial breakdown, there are-- if you'll look at that, if you have that document.

**WALZ:** Yeah.

**ERDMAN:** OK. All of those that say new there, can you explain what that means then?

**WALZ:** Are you looking at this one?

**ERDMAN:** Yeah, the backside of that. It says new in 2021, State Department of Education Leadership Cash Fund and all those new things. If we're not creating any new programs, what are all those?

**WALZ:** Those-- yeah, those are new, but they were also created in last year's legislation. I believe just about every one of them except for the YRTC Door to College. That, that was new this year. Everything else we discussed last year in the lottery bill.

**ERDMAN:** OK, so--

**WALZ:** And it-- they're new because they're new from the prior allocations.

**ERDMAN:** Oh, OK, all right. So Section 10 creates a new cash fund, Section 10 of the amendment. Can you tell me where that cash is going to come from in that fund-- into that fund?

**WALZ:** Can you--

**ERDMAN:** Section 10 is on page 11 or 12, I think.

**WALZ:** The funds shall be used for expenses incurred by the department to upgrade--

**ERDMAN:** Yeah, where, where are the funds coming from to go into the cash fund?

**WALZ:** The lottery funds.

**ERDMAN:** The lottery?

**WALZ:** Yes.

**ERDMAN:** Do you know how many--

**WALZ:** All of, all of this is coming from lottery funds.

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**ERDMAN:** The same with Section 11 then?

**WALZ:** Yes. Everything in this bill comes from lottery funds.

**ERDMAN:** So what happens if gambling is successful and they take away from people playing the lottery and these, these funds go down, then what happens?

**WALZ:** Well, all of these allocations are based on percentages of the total fund. So it's not a, a dollar, it's a percentage of--

**ERDMAN:** OK.

**WALZ:** --total funds. So if, if it's decreased, it just means less--

**ERDMAN:** I understand.

**WALZ:** OK.

**ERDMAN:** So Section 7 in the bill-- on the, on the amendment, Section 7, page 10 talks about it can go either-- the funds can either go to the school-- the school district or the ESU. Do you--

**WALZ:** Yeah.

**ERDMAN:** --see that?

**WALZ:** Yeah.

**ERDMAN:** Can it go to both?

**WALZ:** Yeah, it, it possibly could.

**ERDMAN:** So if the ESU is doing this, why would the school district need to do it?

**WALZ:** Well, that was something that Senator Murman wanted-- had in his original bill, that he wanted money to either-- he wanted the school districts to have an option. So if they, if they wanted to do their own training, money could go to that school district. If school districts wanted to participate in the ESU training, as, you know,--

**HILGERS:** One minute.

**WALZ:** --for economy of scale, they, they could use the ESU. So it was something that Senator Murman had wanted originally.



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**ERDMAN:** OK. But, but wouldn't that be a duplication of services if the school got it and also the ESU were both derived to do the training? Why do you want to have both do training?

**WALZ:** I-- you know, I think-- honestly, I think it makes way more sense to use the Educational Service Units to provide training because of the economy of scale. I think that you're going to get a lot more for your money. But it was just something that Senator Murman felt was important. He wanted to--

**ERDMAN:** OK.

**WALZ:** --make sure that school districts had that option so we included that in the amendment.

**ERDMAN:** OK, so would you be opposed to just extending the sunset on the current statute and not adopt LB529?

**WALZ:** I would much rather get this passed because we have a lot of people who are depending on it.

**ERDMAN:** Would you be opposed to extending the sunset?

**HILGERS:** That's time, Senators. Thank you, Senator Walz and Senator Erdman. Senator Kolterman, you're recognized.

**KOLTERMAN:** Good afternoon, colleagues. I rise to talk about AM731. You know, I, I live in a school district, in a district, the 24th District that's serviced by two ESUs. ESU 6 happens to be in Milford, which is in the 24th District, and they, they have 16 schools in that ESU. A lot of them are Class B schools. The only one that's not in there that abuts up to it is Lancaster, Lincoln Public Schools. It represents about five counties. And then ESU 7 is out of Columbus and they have 19 schools. And I just want, I just want to make sure that people understand that if you serve on an ESU board of directors, you're elected by the local people. Those are elected positions just like a school board. And so when, when people get elected, that's local control through and through. I don't see us giving away local control by moving this money to school districts, especially when you have-- these ESUs, they have-- they do a lot and I'm proud of my two ESUs. And I think we all ought to be. They don't charge-- we don't get-- they don't get a lot of tax dollars, but they do childcare referral networks. They do mental-- they have mental health departments. If you want to see a state-of-the-art mental health department, go up to Columbus and take a look at the, the program that they have in place in ESU 7. They have professional development. That's really what we're

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talking about here, utilizing the ESUs to develop professional development as, as it becomes training. In many of these smaller school districts, they're the technology hub for the school district. They have serve-- student services. Here's a good one. They have a substitute teacher consortium. So if you need a sub and you can't find one, you can call your ESUs and they'll help you find one. And by the way, they also administer grants. They teach leadership classes and, and it doesn't matter which ESU you're talking about. At least the ones that I'm familiar with do a tremendous job of helping each and every school district. When we're talking about the school districts in, in-- that, that I'm alluding to here, it's these districts. Now, these districts wouldn't be able to use a lot of these services strictly on their own. So Boone Central, Clarkson Public Schools, Columbus Public Schools. Now Columbus is a bigger school district, they might be able to afford some of this. But I'm going to tell you something, Cross County, they, they, they don't have a lot of extra money, Palmer, Humphrey Schools, Leigh Community Schools, Osceola, Schuyler, Shelby-Rising City, St. Edward, Twin Rivers. And then you come over to ESU 6 and I can read you that list, but I just encourage you to go onto your websites and take a look at what your local ESU does for you. So before we throw them under the bus here today, let's take a look at what they actually do. My opinion, they do a tremendous service to all of our school districts. And I can't speak for Omaha and Lincoln because I'm not familiar with them, but I'm darned familiar with what goes on in Seward County and the 24th District in York and Polk and Columbus and Platte County. And, and they just do a tremendous job. So let's give them the credit where credit is due. Let's support the ESUs. Let's let them be the deliverer of the, of the student services,--

**HILGERS:** One minute.

**KOLTERMAN:** --as well as the professional development because they got people on staff that deal with that day in and day out. And let's give them again once more the credit that they deserve. And then finally, I support this LB529. I said that earlier this morning. Let's get on with the issue of debating LB529 and get off these other issues. Thank you very much.

**HILGERS:** Thank you, Senator Kolterman. Senator Walz, you're recognized.

**WALZ:** Thank you, Mr. President. I've just been going around trying to talk to some of my colleagues. You know, a lot of this, a lot of this discussion comes down to the fact that it's ESUs versus schools being able to do their own training. And I still, I still have a strong,

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strong feeling. And, and again, I was very, very thoughtful about, about why I wanted the ESUs to do the training. A lot of it had to do with economy of scale. A lot of it had to do with the fact that I thought that the training would be much more effective, much more efficient for our school districts. And the other thing that the ESUs in this bill would be able to provide is ongoing support for our teachers throughout the year. A lot of you may know that when I was 19 years old, I moved into a home with three ladies who had developmental disabilities. And I worked with-- actually I worked with a lot of-- several clients. And even though I had training on behavioral intervention and, and physical intervention through Mandt, there were so many times throughout the year, and as a teacher too, but so many times throughout the year that an issue would come up with a, a student or one of the clients that I was working with and there was nobody there to help me. So one of the most, most important things about this bill and about allowing the ESUs to provide the training was also the ongoing support that could be provided to teachers throughout the year. It was very thoughtful on my part, very intentional. I know that it's easy for an administrator or a boss of any company to hand you a policy book and tell you to read the behavior or discipline policy. And then things, you know, get busy and you're kind of left to, to read it on your own and pretty soon you're kind of left to fend for yourself. And that's no fault of, of administrators because they get busy as well, but I know that if the ESUs or another entity were the organization that were, that were providing the training to the teachers-- and Senator Linehan and I had this conversation as well, but if, if it-- if they were allowed to do the training, we know, we know that the teachers are truly going to get the training that they need. They're not just going to be handed a policy book and say good luck the rest of the year. In fact, that, that was exactly one of Senator Linehan's-- it's a point that I got from her. You know, it was, it was something that I remembered that she said that she was afraid that teachers weren't going to get trained. So I--

**HILGERS:** One minute.

**WALZ:** --I thought, well, you know what? She may have something-- I just took it to heart and I, and I wanted to make sure that whatever we did, whatever we did, teachers were truly going to get the training that they needed and they were truly going to get the ongoing support that they needed throughout the year. So, again, I just want you all to please understand that this was very thoughtful. I took consideration from the teachers. I took in consideration from a lot of my colleagues. I took in consideration from administrators. Every

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single educational organization supports this. Every single educational organization supports this. So I just wanted to explain a little bit more about the ESU and the school district issue. Thank you.

**HILGERS:** Thank you, Senator Walz. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. President. I will forever associate the smell of these Purell wipes with my time in the Legislature, I think. Senator Matt Hansen took a lot of the words right out of my mouth that I wanted to, to share today in terms of my views about what happened today. One of my guiding beliefs, and something I tell my kid all the time, is that 99 percent of the problems in the world is because people don't do the reading. It's because people don't look at the syllabus and it's because people don't do their reading. Just because, colleagues, you don't know the rules or just because a person doesn't know about a certain procedure doesn't mean that you were tricked. It doesn't mean that, that some trick or something was pulled over you. The rules that we have in this book that we debate-- and we have plenty of time to research. We can research the legislative history behind the rules. We can research the reason behind the rules and we can research how they've been used. If they're new, when they were introduced and why. That onus is on all of you to read and understand. And you don't have to do it. You don't have to look in this yellow book and see what the tools are in your toolbox that you're able to use to achieve your means. But if you don't, don't stand up and say that you were tricked when something happens that you don't understand. Our Standing Committees, Revenue, Transportation and Telecommunications have IPPed plenty of bills, including Senator Hilkemann's seat belt bill and cell phones in cars. He cared about those bills a lot. Those bills mattered a lot to him and they were IPPed. And if members don't know the rules, maybe they should learn them. Ignorance is not a defense. And honestly, in three or four days, a lot of you in this body might not even remember the rule that was put in play today. And, Senator Murman, there's a very good chance that you could have gotten out of this problem today if you knew the rules. There was a way for you to solve this. But I'm not going to help you understand what you could have done. This bill to hit the kids, this bill to restrain the kids is never going to pass as long as I am in this Legislature. Whether it is introduced as an amendment, whether it's pulled out of committee, or whether it comes out honestly from a committee vote, it's never going to pass in this Legislature because I understand the rules. We have rules that matter. We have the procedure to adopt them. And that doesn't mean it's just what the majority wants. The rules that we adopt aren't just what most people

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want to happen and it's what people want in a certain way and that's what's going to get done. There were rules introduced this year because of motions that I put on bills last year designed to stop me from being able to do that again. So if you want to get high and mighty about the process being fair, keep in mind that this amendment to restrain the kids was not prioritized. It was a controversial bill that has caused heartburn for years in this body that we have gone through again and again in many, many iterations that was offered and introduced in a way that was insulting to the Chair of the committee. And there were more procedures we could have done to stop it if the Chair hadn't done the right thing and ruled that we needed 30 votes to get this adopted to the underlying bill. If the Chair had ruled that the amendment was not substantially similar and that AM719 only needed to meet the threshold of 25 votes to advance, then we would have been totally justifying and arguing that AM719 would need a hearing. Because you can't just attach any old amendment to a bill that hasn't had a hearing and the people haven't had the opportunity to give feedback and the committee has had the opportunity to fully vet. But the Chair made the correct ruling that the amendment needed to meet the 30-vote threshold, which is according to the rules.

**HILGERS:** One minute.

**HUNT:** And, thus, shouldn't have been a surprise to anybody. It's clear that what this is really about, no matter what iteration we're talking about this bill to restrain the kids, whether it's pulled from committee through a pull motion, whether it's voted out, whether it's tried to sneak on with an amendment, which sounds like is what the proponents of this policy want to do on Select File so we're just going to be back here all over again. It's not about the legitimacy of the policy. It's about the ego of one man in this body. Senator Groene spoke twice as much as the introducer of the bill about why we need this policy. And the reason I say this is because when we stand up and we say it's not fair that something happened, that we don't like the way the rule turned out so the rule wasn't fair and we have to get rid of the rule, that's confusing to Nebraskans. Just because you don't like the outcome doesn't mean the wrong thing happened. It just means you don't understand the rules.

**HILGERS:** Time, Senator.

**HUNT:** Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hunt. Senator Groene, you're recognized.

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**GROENE:** Thank you, Mr. President. You've been called a lot of things today and you lately been called Chairman too. But anyway, I want to make sure that people understand here. Senator Murman did nothing wrong. He brought an amendment to the floor that was based on a bill he had in committee. He knew that committee-- the committee is unbalanced in its representation of what the floor believes. He knew that. He knew last year this similar legislation had 33-- 35 before the, before the COVID break and then arms were twisted and-- but 32 actually voted for similar language last year. He knew he had 25, 26, 27, depending on who's here, support of his bill if the committee wasn't unbalanced in its political persuasion. He knew that. Our forefathers, if you want to call them that, that came in this body before that knew that situation will happen in a nonpartisan Legislature with powerful committees. They knew that so they brought these rules that you can amend on the floor and do the will of the people. That's why we're here, to do the will of the people, not to be collegial to a committee chair or, or some committee. Senator Murman did that. He did follow all the rules. When he dropped his amendment, his bill was not IPPed. That was after the fact. That's not collegial. If you do not-- if they did not like Senator Murman's amendment, they should have voted it down, convinced the majority of senators on the floor to vote against it. But no, they didn't want to do that. You know, they'll talk about collegial. The bill last year was IPPed before the, the committee amendment was even heard. Did you see that happen this year? Did anybody see that happen? Who's collegial? These antics of those who stomp their feet and high and mighty and say whatever-- with religious fervor that their secular human beliefs are-- can, can allows anything, allows anything at all as long as the end justifies the means needs to stop. Senator Murman's amendment should have been voted on as was. If it failed, it failed. If it passed, it passed. And we should have moved on. Yes, filibusters do happen and they happen, but that's the last resort. We didn't have to go there. We didn't have to go there. But collegiality is burning up in this today because somebody decided it's going to be my way or no way and stomp their feet. I am going to pull my amendment, AM731, and we'll come back on Select in a different form while we need to have to regroup and work with the committee, as I said, to protect teachers. Because ESUs should not control the money, should not be involved in, in where the money goes. Local control-- local should decide where the money is spent. I have, as I said earlier and I'll repeat it, I've got a real mad ESU administrator out there because five schools went--

**HILGERS:** One minute.

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**GROENE:** --together and hired a, a, a mental health professional and snubbed the ESU because they could do it a lot more reasonable and share that individual. Do you think that's going to happen if you start giving the money right direct to the ESU and they won't start throwing a hammer around? It's going to be our way or no way. It's going to be our version of, of training with the content we decide. And you don't think the ESU Coordinating Commission will come up with one training across the state and eliminate one that might be Christian based? I use that word Christian based with the values of Christianity in the training without using the, the, the word Jesus Christ. Some from small town might want to do that because they've found the fear of God is the best way to control the human nature. But that's what we have here, folks.

**HILGERS:** Time, Senator.

**GROENE:** I pull the amendment.

**HILGERS:** Without objection, AM731 is withdrawn. Returning to debate on the committee amendment, AM495. Seeing no one in the queue, Senator Walz, you're recognized to close on the committee amendment.

**WALZ:** Thank you, Mr. President. I appreciate the discussion that we had today on many of the great programs in LB529. As a reminder, the biggest recipient of funding is the Nebraska Opportunity Grant Fund, which is Nebraska's only need-based financial aid program for postsecondary kids. By passing this bill, we are confirming to 13,000 Nebraska college students and their families that nearly \$11 million of lottery allocation for the upcoming school year is guaranteed. It provides similar assurances that funding is available to those college or dual-credit students benefiting from the Community College Gap Assistance Program and the Access College Early Scholarship Program, as well as to our teachers and those aspiring to the profession that funds are secure in both the Excellence in Teaching Program as well as the career readiness. It is also providing a great new program to support kids that complete the YRTC program and are working to turn their lives around by creating the Door to College program. LB529, as amended by AM495, is allocating \$100 million over the next five years and as illustrated in the handout I provided this morning, has 33 groups or individuals supporting it, including all of the education organizations and higher education institutions of our state. I urge your green vote on-- to adopt AM495. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Walz. The question before the body is the adoption of AM495. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

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**ASSISTANT CLERK:** 29 ayes, 6 nays, Mr. President, on the adoption of committee amendments.

**HILGERS:** Committee amendments are adopted. Turning to debate on LB529. Seeing no one in the queue, Senator Walz, you're recognized to close. Senator Walz waives closing. The question before the body is the advancement of LB529 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**ASSISTANT CLERK:** 28 ayes, 6 nays on the advancement of the bill.

**HILGERS:** LB529 advances. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR25, LR64, LR65, LR66, and LR67. Next bill, Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, next bill, LB156, offered by Senator Wayne. It's a bill for an act relating to cities; to adopt the Municipal Inland Port Authority Act; provide a duty for the Revisor of Statutes. This bill was introduced on January 8 of this year, referred to the Urban Affairs Committee. That committee placed the bill on General File with committee amendments.

**HILGERS:** Senator Wayne, you're recognized to open on LB156.

**WAYNE:** Thank you, Mr. President. And colleagues, I know we'll have a great discussion regarding this bill, but I hope people will listen because we have an amendment that changes a lot of concerns that I had and some other people had that we talked to. But as some of you may recall, that the first time I ever introduced port authorities was in 2018, but this process actually started in 2017 when we tried to do a tax-freeze area for north and south Omaha. As this process continued to grow, we continued to research port authorities and inland ports. And as most of you think of ports, you think of Missouri River and barge or some kind of East or West Coast thing. And so at that point, I brought Senator McDonnell in and all he wanted to do was be the president of the longshoremens so that conversation didn't go very far, so-- and Senator Lowe actually just could not get out of the habit of telling me no so we never went really far with that. But nevertheless, in 2019, we had a, a, a kind of an awakening. And that was when Blueprint Nebraska also came up with the idea, independent of us, although I think Senator Smith, I think it was a coffee conversation so I am going to take credit for it because I can on the mike and he can't refute that. But Blueprint Nebraska also came up with the idea of a port authority. And what it is, is basically Missouri, Iowa, Utah, and other places have this idea of inland ports. So when that



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became a recommendation and smaller communities such as Sidney and Norfolk and other places started grappling with the idea of what a port authority could be, we started engaging in a lot of conversation. So LB156 would adopt the Municipal Inland Port Authority Act. It is similar to how Blueprint vision-- or Blueprint Nebraska imagined how they would consider how this would work. Under this bill, cities of the metropolitan class, cities of the primary class, or cities of the first class could create inland port authorities in eligible areas within the corporate boundaries or the ETJ. It must be 300 acres or more within a certain distance from two forms of existing transportation infrastructures: navigable rivers or navigable waters, interstate highways or four-lane highways, and major airports. There was one in the blueprint-- or the bullet points that I handed out that my good friend, Senator Erdman, couldn't help but point out there was a typo and that was major rain lines. And that was really from me thinking about the Kingdom of Quivira, which is a mythical place in Omaha. But it's not actually rain lines, it's rail lines. And so what we were trying to do is connect small communities. The reason everything kind of lined up this year was Senator Groene's bill. And so the difference between Senator Groene's bill regarding the port or the rail was there's a project already happening. There's a project that is moving. There is a project in which they can apply a grant for and that's different cities throughout the community who already have things going. What we ran across over the years of trying to incorporate or bring, bring businesses here, such as Tesla or Toyota, is we didn't have enough massive ground, what they call mega sites, to try to bring those people here. So if you look at Senator Groene's bill, that's kind of the grant application to get over the hump. If you look at this inland port bill, it's kind of the bringing the land and bringing the pieces together at the local level to finally go out and recruit individuals. So in 2018 when we started this process, we met with the Army Corps of Engineers. We actually looked at data from Missouri River, seeing how things worked. We actually learned that the North Platte-- or the Platte River is considered navigable. I don't know how that works, but it's fine. And we began to look at the major rails across the state. So we figured this was a tool that can not only bring in the likes of Toyota, Toyota and massive manufacturing and, and processing, but we had to start engaging the chambers of commerce. And so we started talking to the Omaha Chamber of Commerce and the State Chamber and they were having the same issues across the state. So if you look at who testified in favor or sent letters, and I passed it out-- the letters, Sidney, South Sioux City, York, Holdrege, and Fremont, just to have a few. Am I next, Mr. President, for the amendment?

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**HILGERS:** Yes, Senator Wayne. As the Clerk stated, there are committee amendments. Senator Wayne, you can continue on and open on the committee amendment, AM223.

**WAYNE:** Thank you. And the reason why I want to bring up that is because one of the big concerns you'll have initially is the cities, limited to just cities. I truly believe that most economic development occurs in the cities, but that's from a mindset of Omaha. And I have to get out that mindset when I think of economic development because counties play an important role, especially outside the city limits. So what AM223 does, and it's a white-copy amendment that specifically, cities of the metropolitan class, cities of the primary class, and cities of the first class would also authorize formations of inland ports by counties with populations over 20,000. AM223 authorizes the formation of a joint inland port authorities by the city of metropolitan class, city of primary class, and the city of first class with one or more counties. So we wanted to add the counties to be able to do things particularly around Sidney and those areas to figure out how to create this inland port authority. I have another amendment that will address many of the concerns that I've heard once this idea came out regarding taxes and, and things like that. And I can talk about that on AM737. But I believe, Senator-- or Speaker Hilgers, we don't go to the next amendment now or do we vote on this amendment?

**HILGERS:** Senator Wayne, we have AM737 next, which will amend, I believe, AM223. So we will-- we-- that will be next.

**WAYNE:** Can I go ahead and open on that?

**HILGERS:** Mr. Clerk, for the amendment.

**ASSISTANT CLERK:** Mr. President, Senator Wayne would offer AM737.

**HILGERS:** Senator Wayne, you're recognized to open on AM737.

**WAYNE:** Thank you. So over four years when we've been working on this, we had an elected board because they had taxing authority. But I stood on this floor yesterday saying I didn't want to raise taxes or fees in Douglas County and hearing the debate on education, we can have a big debate about the number of people who influence education that are elected and the bureaucracy of that. So having talked to many of the parties, the chamber and, and other officials, we have added this amendment that's also fundamentally changes-- it's a white copy amendment and I want those to pay attention who have asked about some of these concerns. First, the amendment strikes sales tax authority for the inland ports under the bill. Second, because it eliminates the

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taxing authority, we would replace the elected board with the local appointed board by the city or, or county, or joint. Finally, the amendment provides alternative financing methods to develop port authorities. The amendment creates a subaccount in the site and building development fund for the purpose of large shovel-ready commercial and industry sites with port authorities. The amendment would transfer \$5 million for both the 2020-- 2022-2023 year and 2023 and 2024 subaccount years. This is largely because-- this amount is largely just a placeholder at the time. We continue to work with Senator Stinner and the Appropriations Committee to figure out the exact amount, but we believe this is the correct funding at this time. So I just want to remind everybody quickly what kind of all transpired. This is about Nebraska thinking big and thinking about economic development. And what started as a north Omaha issue for the last four years of economic development, I'm constantly reminding my colleagues that north Omaha is no different than many of the small communities and Main Street. A good paying job goes a long way. So how do we develop that? And what we spend time doing is trying to connect and put together a piece and pieces to allow smaller communities who are also dealing with the same thing of economic development, a tool in the toolbox that most states have except for us. We don't have this tool and that's why we're creating it. What this also does is allow for those local communities to designate a local board by their choosing to pinpoint and drive this economic development. It's not bureaucracy. We're not expanding government. What we are trying to do is help those local communities develop and we can point directly to two major developments that could have occurred in south Sarpy when Toyota wanted to come here or thought about coming here and Tesla. And the two issues that we ranked the lowest on their scoring charts were land acquisition and site readiness. And those are hundreds of-- and we're talking thousands of jobs plus the spin-off in local economies that would have occurred from those trickle-down effects of that major corporation coming here. And so, again, we weren't going to prioritize this this year as a committee, but when I saw Senator Groene's bill and what he was doing, that is able because they already have a site ready to go. But does Sidney? Does Norfolk? Does South Sioux City? They don't have that site ready to go and this allows the tools to get that done. So with that, I would ask you to vote green on AM737, AM223, and the underlying bill of LB156. Thank you, Mr. President.

**HILGERS:** Thank you for your opening, Senator Wayne. Debate is now open on AM737. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr.-- thank you, Mr. Speaker. Fellow senators, friends all, I enthusiastically stand up in support of both amendments

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and the underlying bill. I do sit on the Urban Affairs Committee and I was thrilled, thrilled that this bill was brought forward. For those of you that aren't familiar with inland port authorities, I encourage you to get on your computers right now and look up the Utah Inland Port Authority business plan. It's available online. It really walks you through the process and, and can kind of really show you the potential that we can have if we pass this bill today. As former Bellevue mayor-- now Senator Sanders-- knows, this bill is a perfect storm for the city of Bellevue. Unfortunately, because of the debate today, we are unable to get to, to debate LB9, a Speaker priority bill, that is going to help Bellevue grow. But if we can get LB9 passed and this bill passed, the potential for Bellevue to-- to move south is going to be tremendous. We're going to quit losing bids and actually start bringing more business in south of town because as you may not know, Bellevue is landlocked unless we can move south. If you look-- and again, I'm going to talk about my community-- you look at Bellevue, to our east is the Missouri River. We have two railroads within the guidelines of this bill, both Union Pacific and Burlington Northern Santa Fe Railroad. Both railroads employ tens of thousands of people, many of them from Nebraska. If you look-- bring up the Nebraska rail map, you can see where the railroads go in your own communities. And I know that you're not all as fortunate as we are to have the Missouri River, but there are four criteria that you can meet, so if you don't have a river, maybe you meet one of the other four criteria. Bellevue meets three of the four. Now that the taxing authority has been removed, the bill is not problematic. There is no reason why a sane person would not vote for this bill, especially when we have so few-- few tools in our toolboxes when it comes to the county and municipal levels when we are trying to find ways to grow our communities. And so I stand again in enthusiastic support. If you don't understand what inland port authority is all about, don't depend on people to tell you what it is. Take a minute. Bring it up on your computers. It's actually very exciting and can make Nebraska very progressive. With that, I would yield any time I have left to Senator Wayne.

**HILGERS:** Senator Wayne, 2:10.

**WAYNE:** Thank you. I won't use a lot of time on that. I just want to-- I do want to reference where our statutes came from was mainly from Utah. The first two years the versions we had were from Missouri and Iowa. Utah's gives a little more flexibility to the locals to be able to do some things that they want to do there, so we based this off of Utah. So Senator Blood is correct that, if you want to look at what's possible, look at the Utah inland port authorities and look at what--

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really, that's pretty much how Salt Lake and everywhere around Salt Lake has grew, was that ability to move rail, to move major products through that area. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Wayne and Senator Blood. Senator Lowe, you are recognized.

**LOWE:** Thank you, Speaker Hilgers. Would Senator Wayne yield time-- or yield to a question? Excuse me.

**HILGERS:** Oh. Senator Wayne, would you yield to a question?

**WAYNE:** Yes.

**LOWE:** Or time. Senator Wayne, if-- if we create one of these districts-- areas, can a company from overseas, say Japan or China or England, fly directly into it and avoid the tariffs?

**WAYNE:** So what they could do is they could-- is the-- what they could do-- let me back up. What they could do is the locals could create a-- a-- in that a free-trade zone. They could apply for the federal government to be a free-trade zone and that company would have to then apply to be a free-trade zone. And how exactly the tariffs work on that, I don't know all the details, but they could apply to be a free-trade zone.

**LOWE:** Have they done this in other states where they've done that?

**WAYNE:** Yes. Well, they have done free-trade zones in other states. Actually, Otoe County is a free-trade zone in Nebraska and so is-- out by Scottsbluff, there's a company who has a yard who is-- has a free-trade zone. Yes, they could do that, but it isn't about the tariffs. It's about the, the free movement and bringing more materials, processed products here. But I can get back to you on the specific tariffs because I do know somebody in D.C. I can call.

**LOWE:** OK. And as far as-- what would this do to north Omaha?

**WAYNE:** Actually, it's no longer about north Omaha.

**LOWE:** Well, I understand that.

**WAYNE:** This wouldn't do anything, actually, because we set it up to where you have to have a 300-acre-minimum site and there is not a 300-acre-minimum site in the-- in Omaha that is available. So again, this started out four years ago as a Omaha-- north Omaha job creation

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bill. But at the end of the day, we all need jobs and now it's really about economic development across the state.

**LOWE:** All right. Thank you, Senator Wayne. You know, several years ago, Senator Schumacher tried to do something very similar to this. His thinking was doing it out in Sidney where Cabela's was. And-- and we all kind of had a good laugh about "Shumachistan" and "Schumachitsville" and-- and all of that. Well, I'd like to deem this "Wayne's World." So Senator Wayne, you've got something going. I-- I will be interested on this [INAUDIBLE]. You mentioned about it was going to have a taxing authority and you've removed that now.

**WAYNE:** Correct.

**LOWE:** Will--

**WAYNE:** Go ahead, I'm sorry.

**LOWE:** Will-- so there won't be any taxes inferred by this area then?

**WAYNE:** No. My understanding, in working with Senator Stinner and some of the conversations we're having with the Chamber, we are trying to do a direct line-item approach because there's already a budget-- account there. We're going to create a sub count for the Building Development Fund and we would-- we would budget it there and DED would then approve those funds to be distributed to those ports. And to your question about taxes, this doesn't-- the difference between "Schumachistan" and-- and this one is it doesn't exempt any local taxes. There isn't any-- if you got property tax, whether you're inside the port or not, you're still going to pay property tax. If you have a local sales tax, you're still going to pay that local sales tax. We're not exempting anything. What we're trying to do is create a local board or team to work on specific megasites and economic development.

**LOWE:** All right. Thank you, Senator Wayne.

**HILGERS:** Thank you, Senator Wayne and Senator Lowe. Senator McDonnell, you are recognized.

**McDONNELL:** Thank you, Mr. President. Good afternoon, colleagues. I'm strongly supporting LB5-- LB156 and the amendments. When Senator Wayne brought this up four years ago, it was interesting. It was interesting and it was-- it was exciting. And I didn't know what kind of-- what kind of chance it would have, but the work that Senator Wayne has put into this bill over the last four years is-- is telling of his

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dedication to the state and this-- this idea. We're talking about something that really can be a game changer for the state of Nebraska. And-- and I'm hoping that we, we give Senator Wayne the support. Of course, there's always, I think, ways to try to improve on a bill. And I know Senator Wayne is open to those ideas, but I think the work he's dedicated over the last four years and how far he's brought this legislation is-- is a great accomplishment. And of course, I definitely like the union idea and Senator Wayne is committed to that, so that's definitely going to keep me on board. But Senator Wayne, do you need time at this? All right. I will not yield Senator Wayne any time at this moment, but I do appreciate all the-- all the work he's-- he's put into this bill and strongly support LB156 and the amendments. Thank you.

**HILGERS:** Thank you, Senator McDonnell. Senator Erdman, you are recognized.

**ERDMAN:** Thank you, Mr. Speaker. That was a good comment about "Schumachistan" but, Senator Wayne, "Schumachistan" had no taxes and so that may be the difference there. But I was wondering if you would yield to a question.

**HILGERS:** Senator Wayne, would you yield?

**WAYNE:** Yes.

**ERDMAN:** Senator Wayne, I'm-- I'm thinking about voting for your bill. And I would just ask you, on the front page, you have AM223 and it would allow creation of an inland port authority by counties with a population over 20,000. And you had referenced several times to-- about Sidney. Do you know what the population is in Cheyenne County?

**WAYNE:** I do not.

**ERDMAN:** It's 8,000. So I don't have a county in my district and I-- as far as I can tell, the only counties that would be eligible west of Kearney would be North Platte, Lincoln County, and Scotts Bluff County. All the rest of us are smaller than 20,000. Your-- your bill also says you're going to create only five statewide?

**WAYNE:** So we are working from General to Select with-- with-- with this-- with that idea of trying to create some discretion for DED and the reason we limited it was because we wanted to see if it worked. I do want to correct you on Sidney, though. Sidney is a city of the first class, so they would be-- they would be able to. That's why they're in support of the bill.

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**ERDMAN:** Oh, so--

**WAYNE:** It's a city of the first class or counties--

**ERDMAN:** OK.

**WAYNE:** --20,000 or above.

**ERDMAN:** I had missed that. Thanks for your explanation. All right, I can appreciate that. And so your AM737 has a fiscal note of \$5 million each year, starting with 2022-23. Is that correct?

**WAYNE:** Correct.

**ERDMAN:** And then \$5 million the next year?

**WAYNE:** Correct.

**ERDMAN:** OK. So do you realize that you'll be competing for the money that we're bringing to the floor. Right?

**WAYNE:** Correct.

**ERDMAN:** And so if we get to the end of it and we have more-- more A bills that pass, then we have money-- it'll-- could be a proration. Are you aware of that?

**WAYNE:** Correct. And I'm willing to-- I mean, I'm not-- I mean, I hope that doesn't happen, but setting up the structure. And if I have to come back next year and figure out the funding, I'll do that.

**ERDMAN:** OK. All right. I appreciate that and thanks for clarifying that on Sidney. I will-- I will withdraw my comment about not using Sidney. You can if you'd like. Thank you.

**HILGERS:** Thank you, Senator Wayne and Senator Erdman. Senator Briese, you are recognized.

**BRIESE:** Thank you, Mr. President. And good afternoon, colleagues. I was present, not voting in committee and my concern there related to the creation of another entity with taxing authority. Initially, this had the ability to levy sales and use tax. AM737 takes that out of it and I intend to support AM737. We talk about growing our state. We talk about creating jobs, attracting residents, growing our tax base. And there is no silver bullet to doing that. There's no magic wand, but it's going to take a multipronged effort and Senator Wayne has presented us with one of those prongs and I applaud his efforts here.



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It's one tool in the toolbox that we have to help increase economic development growth in our state. And I do note that the entity that creates one of these districts must consider various criteria. And if you look at those criteria, they're designed to ensure that these port authorities generate economic development. And I would consider the powers given to these authorities as very reasonable-- again, no ability to impose sales and use tax, no ability to levy property taxes, no power of eminent domain. And what they are given are-- powers they are given are reasonable and those powers are consistent with their mission. And I think it's a solid concept and I support it and I'd urge your support also. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Briese. Senator Arch, you are recognized.

**ARCH:** Thank you, Mr Speaker. I also sit on the Urban Affairs Committee and voted no on this particular bill for the same reason that Senator Briese gave for a present, not voting. But Senator Wayne, I have-- I just have a couple questions.

**HILGERS:** Senator Wayne, would you yield?

**WAYNE:** Yes.

**ARCH:** Thank you. I-- I noticed that-- that this is an appointed board rather than an elected board. Can you-- can you help me understand your thinking on that? Why not elected?

**WAYNE:** So many times-- well, the short answer is, if they were going to have taxing authority, I wanted the people to be able to vote them in or vote them out. If they're not having taxing authority, then I think the mayor, the city council, the board, and the county board should be able to appoint those necessary who can develop their area the best.

**ARCH:** OK, thanks. They-- they do have the-- they do have the capability of issuing bonds, correct? They do have the issue-- they do have the capability of borrowing. And so they do have that, they do have that authority.

**WAYNE:** Correct. They have bonding authority and that's only because right now, it's-- it's so cheap to bond. But we can have that conversation from General to Select and-- if we need to make some changes there.

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**ARCH:** OK. The second question is, I'm-- I'm not familiar with the Site and Building Development Fund. It-- it's a-- it's a current fund that exists. Is that correct?

**WAYNE:** Correct.

**ARCH:** Could you help me understand that a little bit better?

**WAYNE:** So DED has used Site and Building Fund when there is projects and there's companies who need to develop or get the site ready. Typically in our area in Omaha, it was used where-- where the old ASARCO plant was to help clean it up, to make sure if there's any-- any environmental things, to help get the site ready. And you would apply to DED to-- to get that.

**ARCH:** OK. And then who makes-- who makes the rules? For instance, would there be-- would there be additional rules for application, for grant applications? And-- and then does DED make the decision as to who receives those grant funds, how much they receive, and so forth?

**WAYNE:** Well, that's actually a conversation I'm having with-- hopefully to have with them over General to Select because right now, there's no discretion. And so with the limit of five, it really becomes a first come, first serve. But by removing that taxing authority, I realized I was removing a lot of opposition. So I do want to have that conversation of what kind of authority do they want to have. I think it's important we keep a cap on it to see how it goes. But I do think if a small town who doesn't really meet the criteria or doesn't really have a full application of what they're doing versus a town who-- or a city who did really well, it shouldn't necessarily be first come, first served. But we were starting that conversation again yesterday when we saw the final language of the amendment, which was just yesterday, and I dropped it yesterday. It's still a work in progress, but that is what we're trying to do.

**ARCH:** OK, thank you. Because yeah, using up \$10 million would be pretty quick in a-- in a large city for-- for acres-- for three hundred acres that you could-- you could go through that. Thanks-- thanks very much for those-- for those answers. With that-- with that taxing authority eliminated, I-- I will support this bill on General File. Thank you.

**HILGERS:** Thank you, Senator Wayne and Senator Arch. Senator Groene, you are recognized.

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**GROENE:** I stand in support of LB156 and I really appreciate AM737 because we had discussions with him-- a lot of us did-- about the taxing, the unended taxing authority. The sales tax could have been at 40 cents if the board would have passed it, but-- but he took that into consideration, removed it for now. I've seen Senator Wayne work now. The man-- I wouldn't play him in chess because he thinks five moves ahead. And I'm sure he's not done with this. He's going to get the master plan in place, as he did with his work on TIF, and he will continue to fine-tune this in the future. But you'll be surprised, Senator Wayne and I never talked to each other. I did LB40 and he did LB156 and then somebody said Senator Wayne, you ought to talk to Groene. He's got something just like it. And this is very similar, same ideals, same big ideals into the future. His is much bigger than the one we came up with in LB40. But we happen to be one of the cities, North Platte, that fits under this-- this and he didn't do it to try to get my support or I did anything to get his support. We're located within one mile of a major rail line. You all heard that the other day. If it's located within two miles of any portion of a federally designated national system of interstate-- we're at the interstate's right next-- runs right next to us, 80. We already have a hub, so this plays-- might play into what our big dreams out West could-- could be. The way I look at it, there-- I was on the Economic Development Task Force and, at that time-- that was a couple of years ago when we had that subcommittee. At that time, a car manufacturer was interested in Nebraska and the first thing we heard from the Economic Development folks at the state of Nebraska was they want a location, they want 1,000 acres. I think it was 1,000 acres and they want it next to rail and they want it next to an interstate. No community was prepared to even address that. And I believe what Senator Wayne is trying to do here is those communities will, if they create one of these, will have those answers in place. To correct a little-- a little bit what Senator Wayne said about North Platte, we don't have the land yet. We have an individual who will sell the land on the rail hub to the development corporation, but we need some assistance with the funding to go further with-- with the plans. So we've got to think big, folks. You know, Detroit lost auto manufacturing because states like Kentucky and other ones down South had a plan and they attracted those car manufacturers and they're prospering. But I like blue-collar workers, I like people who wear blue jeans to work. They're usually conservative, so I want more of them in the state of Nebraska if they like to hunt and fish and like the Second Amendment. Well, maybe I'll get some people to vote against this-- I'm sorry, Senator Wayne. But it's a good bill, it's a good start, it's a good template to the future, and I applaud Senator Wayne for bringing it.

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**HILGERS:** Thank you, Senator Groene. Senator Moser, you are recognized.

**MOSER:** Thank you, Mr. Speaker. I was wondering if Senator Wayne would respond to a few questions, please.

**HILGERS:** Senator Wayne, would you yield?

**WAYNE:** Yes, yes.

**MOSER:** I'm trying to get the understanding of what your bill does. What's the difference between this inland port authority and a land bank or some private development corporation that might assemble land for development?

**WAYNE:** Well, a private corporation could. The land bank was originally and still is focused on residential vacant small lot properties, not-- not commercial development. So they're looking at the vacant house or the vacant property that's been condemned for years and try to refurbish that. This is about the economics of-- let's just use North Platte-- of trying to bring in a corporation or a manufacturer to their area, but don't have the ability to negotiate and get that done.

**MOSER:** Well, is there a tax advantage? Do they get preferential tax treatment?

**WAYNE:** No, there's nothing to do with taxes. This is just about the structure of allowing a North Platte or a Sidney to put an economic plan together with experts and go out and start having these conversations to maybe acquire a-- a megasite.

**MOSER:** So that the-- the port authority is an entity. It's not a space?

**WAYNE:** Correct.

**MOSER:** So it's-- it's not a-- it's another political subdivision, so to speak?

**WAYNE:** Kind of, yes.

**MOSER:** If they could issue bonds, how if-- how would they pay them back if they have no income?

**WAYNE:** Well, we are working. That's one of the issues that I'm working on through-- through General to Select because again, initially, Senator Moser, I was going to fight for the elected board and taxing authority. That-- that's how the initial bonds were going to be paid

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back. But because of our economic position right now and because of what's going on with the budget, it made more sense for me, when talking to the chambers, let's get the structure in place and we'll keep working on funding later. And then we approached Senator Stinner and we think there's still enough in the budget to get that done.

**MOSER:** Because if you have no income, you're going to get a lot higher rate on your bonds-- you're-- than if you had a county or a city or the state or someone have their Full Faith and Credit behind them. You'd get a lot better rate.

**WAYNE:** Well, with the subaccount and the budgeting process, that's what the \$5 million-- and \$5 million will do to-- to allow them to have that Full Faith in-- in this entity.

**MOSER:** Is there a way that this could work in your district?

**WAYNE:** As written, not really.

**MOSER:** So what are we doing this for if it doesn't help your district?

**WAYNE:** I'm doing it for your district. No, I'm serious. I mean, this started out as a Omaha idea, but the more we kept going across the different cities who came in-- and quite honestly, Sidney was one of the main ones that I've talked to, at least to Senator Hughes about, for three years, and Senator Erdman about how to-- what do we do, this became a tool in which the chamber said we missed out on a megasite. And then when I reached out to the State Chamber, it was well, we're missing out, not necessarily on megasites, but just some medium sites.

**MOSER:** So in your district, there wouldn't be a big enough area probably to put together that many acres and create a district?

**WAYNE:** Not-- not theor-- not-- not necessarily. And that's why we added the county language because if we do it as a city and county, we might be able to do something with the Missouri River. But really, in my area, if you want to say the CD 2, who will most likely benefit is-- is Bellevue in south Sarpy County underneath this, not necessarily north Omaha.

**MOSER:** OK. I was just trying to--

**HILGERS:** One minute.

**MOSER:** --put it all together and try to get the advantages of the bill that you're bringing and understand where it's coming from and what it

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can do. So I appreciate your honesty in answering all those questions. Thank you.

**WAYNE:** Thank you.

**LINDSTROM:** Thank you, Senators. Senator Erdman, you are now recognized.

**ERDMAN:** Thank you, Mr. President. Good afternoon again. I appreciate the questions there, Senator Moser. I think that was very important. Senator Wayne, can you answer a question or two for me?

**LINDSTROM:** Senator Wayne, would you yield, please?

**WAYNE:** Yes.

**ERDMAN:** Senator Wayne, you-- you had mentioned between General and Select, you're going to work on a method for them to raise funds to pay back bonds if they do issue bonds. Have you any suggestions you can give to us as to what you think you're going to do?

**WAYNE:** Well, so here's-- here's the fundamental problem-- and again, we got this amendment yesterday-- is by me eliminating the sales and use tax, the only authority they have right now is revenue bonds. To Senator Moser's point, you can't necessarily go and get revenue bonds if you don't have revenue.

**ERDMAN:** Right.

**WAYNE:** So if we switch that to general obligation bonds, just like many of our-- many of our other political subdivisions or state agencies, then the appropriation amount does cover that for the private market to issue bonds.

**ERDMAN:** OK, but-- but going forward-- and you're going to take the bill-- the amendment, AM737, says \$5 million this year or in 2023 and then \$5 million in '24. Then what happens?

**WAYNE:** Then though, it'll be a-- it'll be a appropriation process. So if you decided to move the \$5 million in the third year to Game and Parks, then-- then [LAUGH] that would be an entity out there not funded. They just wouldn't have funding.

**ERDMAN:** I never thought about Game and Parks. That was good [LAUGH]. I appreciate that. So-- so following up to Senator-- Senator Moser also said the reason he asked about the acreage that you wouldn't have in

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your city and that's why you expanded it to counties with 20,000 or more so you could expand outside the city limits.

**WAYNE:** Yes.

**ERDMAN:** And then it also says areas of 300 acres within a certain distance of two forms of existing transportation infrastructure. So let's use Sidney, as you've been talking about. It would be a rail and probably the interstate, would that be correct?

**WAYNE:** Correct.

**ERDMAN:** OK. What's the distance? Do you know?

**WAYNE:** I don't know. I did know at the time. Legal counsel is looking for it, but I can answer that on my closing.

**ERDMAN:** Because, you know, in-- in Sidney, it would be-- it would be-- probably from the rail to the interstate would probably be a couple miles. So I just wondered if-- if that would be-- the distance would be prohibitive if it's, you know, how far it is.

**WAYNE:** It's in the bill. I just forgot what page it is.

**ERDMAN:** OK.

**WAYNE:** So I'll-- I will-- I'll push my light and answer that question.

**ERDMAN:** Yeah. And I just-- give it to me off the floor, off the mike. All right? Thank you.

**LINDSTROM:** Thank you, Senators Erdman and Senator Wayne. Senator Wayne, you are recognized.

**WAYNE:** Thank you. I just didn't want to cut Senator Erdman's time off. It's on the bottom of page 2. Has to be located within two miles of a major airport, one mile of a major rail line located within two miles of an interstate system or a four-lane highway or intermodal facility. And I'll yield the rest of my time to Senator Erdman.

**LINDSTROM:** Senator Erdman, 4:39.

**ERDMAN:** Thank you. Thank you, Senator Wayne. I appreciate that. It's a-- you know, in a city like Sidney, in a community like that, it may be relatively easy to match that up. So I appreciate that information. I should have looked at that myself. Thank you for your help.

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**LINDSTROM:** Thank you, Senators Wayne and Erdman. Seeing no one else in the queue, Senator Wayne, you're welcome to close on AM737.

**WAYNE:** So again, I want to thank you, everybody, for talking and asking questions. In-- in all fairness, this was originally a north Omaha problem. I-- I wanted to develop around north Omaha and if you go back and look at the history, I didn't have a 300-- I did not have a 300-acre requirement. I didn't have any of those things. I was looking at key parts of north Omaha to develop. The reason I brought LB544 was because, as I continued to drive around with developers and the chamber, the issue on development of real jobs, as far as hundreds of jobs, was we didn't have the land mass. So that had to make me change my focus to small businesses and that's what LB544 does. It focuses on small developments, half a block at a time, that you can do \$1 million or less to develop that area. But in the process of changing what I believed was best for north Omaha, sitting as Chair of Urban Affairs, and I continued to run across primary class, cities of the second class talk about their economic problems-- and we even went to South Sioux City and had an interim study and I'm sitting there listening to them talk about barge traffic, I'm like, well, I got this weird port authority idea. And then they talk about how they're having the same issues with trying to put land pieces together because you got 15 different people negotiating with the one owner who is driving up the price now because he's getting asked by 15 different people. It just doesn't make sense for economic development. So what was originally a north Omaha idea in my freshman year, yeah, it's left north Omaha out of the equation insofar that we passed regional transit with this body. And the ease-- the issue with regional transit was people are getting companies that were building in south Sarpy, but we couldn't get people there. So this body said it's important for public transit in Omaha. And if you recall, Speaker Scheer actually flipped his position and said that makes sense. What's good for Omaha is good for the rest of the state and if they need to move humans from north Omaha to south Sarpy, they should be able to do so in a public fashion. So had that not bill passed-- had LB554, which is intentional of why it went after this, not continued to move, I don't know if I ever would have brought the port authority because I still would have been trying to figure out what's best for north Omaha. But through that process, I really have learned that what Grand Island needs is a good paying job. That's no different than north Omaha. Now the symptoms of poverty may be different. There may be a different type of drug being used versus meth versus crack versus cocaine versus marijuana. There may be a slightly different achievement gap that we're all struggling with. There may be a health gap, but every one of those communities and small towns need the same thing: economic



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development. So rather than abandon the idea, we continue to fight for it and we continue to change it and change it to where it's at today. And even yesterday, we changed it again after the conversation I had with Chairman Stinner that maybe we can still move this idea forward for Nebraska. So I'd ask you again to vote green on AM737, green on the AM223, which AM737 just replaces AM223, and green on the underlying bill of LB156. And there will be amendments on Select and I will continue to work with all you to figure out what's best for all the communities that we all serve. Thank you.

**LINDSTROM:** Thank you, Senator Wayne. The question is shall the amendment to the committee amendment to LB156 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk.

**ASSISTANT CLERK:** 43 ayes, no nays, on the adoption of the amendment to the committee amendments.

**LINDSTROM:** The amendment is adopted. Seeing no one else in the queue, Senator Wayne, you're welcome to close on AM223. Senator Wayne waives closing. The question before us is the adoption of AM223. All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk.

**ASSISTANT CLERK:** 42 ayes, no nays, on the adoption of committee amendments.

**LINDSTROM:** Committee about-- amendments are adopted. Returning to LB56 [SIC]. Seeing no one in the queue, Senator Wayne, you're welcome to close on LB156. Senator Wayne waives closing. The question before us is the advancement of LB156 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk.

**ASSISTANT CLERK:** 44 ayes, no nays, on the motion to advance the bill.

**LINDSTROM:** The bill is advanced. We will now move to 2021 priority resolutions, LR29.

**ASSISTANT CLERK:** Mr. President, LR29 was introduced by Senator Machaela Cavanaugh. It proposed a special investigative and oversight committee of the child welfare contract. The resolution was considered by the body yesterday. At that time, an amendment was offered by Senator Hughes. That amendment was divided. The first portion was amended by Senator Matt Hansen then adopted. We are now on the second portion of the division, FA7.

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**LINDSTROM:** Thank you, Mr. Clerk. Senator Hughes, you are welcome to open on FA7. Before we do that, Senator Cavanaugh, would you refresh us on LR29, please?

**M. CAVANAUGH:** Yes. Thank you, Mr. President. Good afternoon, colleagues. LR29 seeks to create a special investigative oversight committee to look into the contract of the Saint Francis Ministries with the Department of Health and Human Services and the Department of Administrative Services to serve the eastern service area for child welfare in Nebraska. I think that I don't need to belabor the point of that too much. Again, I have lots of material on how we got to this point, but I know it's late in the day and I'm sure we all want to move forward as quickly as possible. So I will say that I will be present, not voting on Senator Hughes's amendment and I appreciate everyone's thoughtful consideration of the amendment and the resolution today. Thank you.

**LINDSTROM:** Thank you, Senator Cavanaugh. Senator Hughes, you are welcome to open on FA7.

**HUGHES:** Thank you, Mr. President. Good afternoon, colleagues. My amendment is very simple. It makes sure that a special committee or any committee does have to go to the Executive Board to get approval for a subpoena. And the reason why that is, many of you may not really understand quite as easily as those of us who serve on the Executive Board what the function really is. So I'd like to take just a little bit of time to talk you through that. We are the Executive Board of the Legislative Council. It probably would be-- it was a little easier for me to understand that we are the Executive Board of the Unicameral and the Legislature is something different. So the Legislature, we make laws, we debate, do those things. The Executive Board of the Legislative Council or the Executive Board of the Unicameral is the entity that makes all of this possible for the 49 of us to get together, to make laws, to have committee hearings, to debate, to vote, do all of those things. The Legislative Council, the Executive Board has a \$22 million budget because we are responsible for the salaries and the per diems, all of the things that we senators turn in as expenses, but we also have all of the employees. We have approximately 300 employees that serve the Legislative Council, plus the 49 of us, so about 350 people that we have to pay the bills for. We have system upgrades. That-- part of that \$22 million goes for the barriers that we have in front of us. You know, those are things that we have had to take out of our budget. The reason why I bring this up is if there is a subpoena issued, there are expenses for that and the Legislative Council is the only entity that can approve those

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expenses. So it's very clear to me that it's important that before a subpoena is issued, the Legislative Council-- i.e., the Executive Board-- would have the authority to deem that we are going to pay those expenses or not. So if you have any questions or we get a little farther into the debate, but I did want to take a little bit of time to work you through the mechanics of if there is a special committee and if there is a subpoena issued, that there are other things that have to be dealt with. Now I-- I will make it very clear that I am firmly in support of committees or special committees having the authority to subpoena-- the subpoena power. I'm as frustrated as most of you are in dealing with the bureaucracy and the lack of accountability to this body, but if we're doing that path, there does have to be some accountability to our budget and a process that has to be followed in order to make sure those bills are paid. So if you have any questions, we can discuss it later. But I did want to clarify those things of just exactly what the Executive Board of the Legislative Council is and how it relates to the Legislature and where the money comes from for things like this. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator Hughes. Turning to debate. Senator Lathrop, you are recognized.

**LATHROP:** Thank you, Mr. President, colleagues. You know that I was absent for two days. I was in isolation, but I was not-- I was watching this on TV and yesterday afternoon I watched this. We saw the resolution come up. I thought it would go through and then the amendments happened. And I looked at this and I said to myself well, I wish I was down there. I am really glad that I have an opportunity to speak on FA7. I strongly oppose FA7. I'd like to visit with you. As many of you know, I've chaired two of these special investigative committees. The first one dealt with the Beatrice State Developmental Center-- by the way, resulted in a unanimous report. We did good work. We set a course for the developmentally-- services for the developmentally disabled. And then we did the special investigative committee into the Department of Corrections. That was done in 2014. That committee had authority to issue subpoenas in the same way this resolution provides that authority to this committee that we would put together. Were LB-- or, pardon me-- LR 29 to pass, it's the same language. We are, with this, authorizing them to issue subpoenas. Here's what the amendment does, though. The amendment, if you read it, says that this committee can't even hold a hearing without getting the permission of the Exec Board. Now, probably not what you intended. Clearly that would be clumsy and wouldn't work, but it's just as much of a problem if they want to issue a subpoena. And let me demystify subpoenas at this time. So when we see subpoenas in the newspaper,

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it's like the congressional committee subpoenaed Trump's tax returns. And we're thinking oh, my God, this is a nuclear option. Subpoenas are not the nuclear option. Subpoenas are a process and a vehicle for finding the truth. And I will tell you, I've spent 40 years practicing law and doing trial work. I've issued thousands of subpoenas. I have people ask me for them. I need to get off work that day, send me a subpoena. I send-- you send subpoenas out and here's why you do it. Because when you-- when you have the court reporter there or when you have a trial or a hearing or if we are having hearings and we schedule it for September 9 at 9:00 a.m., we want that person there. We don't want to quarrel with them about whether they're going to be there or not or argue with them about why they weren't there or why they didn't bring the stuff you asked them to bring. Listen, the only person that wouldn't want to have this committee have subpoena authority are people that don't want to show up, people that don't want to cooperate, or people that don't want to bring documents before the committee for their inspection. A subpoena is not the nuclear option. It is a tool. And here's the other thing. So if I'm-- if I don't have subpoena power and I-- and I call over to the Department of Corrections, I say Director Frakes, come on over to Judiciary Committee, let's have a hearing, and he says no, I have no way to get him there. If he shows up and he says I got a plane in an hour and you're, like, well, wait a minute, we're having a hearing. You're telling me you're here for an hour? Did you bring the documents we asked you to bring? Yeah, I couldn't find them or we're really busy. What a subpoena does-- what a subpoena does, colleagues, is not something scary. It ends the nonsense. It says this is a day. By the way, every time I've ever done a deposition or had a witness to a trial or a hearing, you call them up and you try to work with them first. You know what? What date works for you?

**LINDSTROM:** One minute.

**LATHROP:** How do you feel about next Wednesday? We can get the committee together. Wednesday doesn't work? We'll do it Thursday. Then you issue the subpoena to make sure they're there and make sure they bring the stuff you want them to bring. This isn't-- we're not-- we're not making an indictment of the executive branch or HHS by giving this committee authority. All we're saying is you have the authority and they shouldn't have to come back to the Exec Board because frankly, Senator Hughes, it's a witness fee, \$20. We don't need to have the Exec Board approve a \$20 expenditure to send a witness fee to somebody we want to have in front of a committee to tell us what the world happened in this contract. This-- by the way, if-- if a subpoena is issued and it is overbroad, we have a process in place. It's in the

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bill that we passed last year. It was present when we had the Department of Corrections. We--

**LINDSTROM:** Time, Senator. Thank you, Senator Lathrop. Senator Hilgers-- Speaker Hilgers, you are recognized.

**HILGERS:** Mr. President, good afternoon, colleagues. I strongly support FA-- FA7 and in particular, the provision that would require what I think to-- what I have thought what is already clear, which is that the Executive Board of the Legislative Council would sign off on any subpoena from this particular special committee. Now I want to be clear. My comments this afternoon are not directed to LR29 at all. Senator Cavanaugh and I have-- Senator Cavanaugh and I have worked since the beginning when she introduced the resolution. And from the beginning, from the green copy of the bill through the negotiation of the amendment through today, I have supported giving that committee subpoena power. My comments today are directed solely, solely to the institutional concern of this particular provision, solely to the subpoena power, one of the-- one of the most important powers of this institution, and making sure that is discharged correctly. Because, as I mentioned yesterday and will talk about today, when we don't do it right, this institution suffers and it has done so in the last two years in the Ebke decision. We have to get this right, colleagues, and I rise today in support of that amendment because I want to make sure we get this right. Now subpoenas-- Senator Lathrop is absolutely right. The idea of a subpoena being a nuclear option is-- it's not. A subpoena does not necessarily equal a nuclear option. I have done, I have served, I have responded to more subpoenas than I could possibly count in the course of my legal career. But it is absolutely true that if most subpoenas are not the nuclear option, it is equally true that many are poorly done. Now some of that is not malicious. There are subpoenas that are overbroad, as Senator Lathrop mentioned. There are subpoenas that are-- maybe are inconsiderate of the witness. There are subpoenas that might unintentionally, through inexperience or otherwise, spawn a court fight and draw funds to fight in front of the court. That's all true. There are-- it is also true that subpoenas can be aggressive or be part of a very strong offensive discovery campaign and can lead to a lot of fights. In this context, however, there's two things that are true. One thing that is true is that when any committee, whether it's the standing committee, a special committee, the Legislative Council itself serves a subpoena, it is drawing off the institution's power. That is very important. If the HHS Committee serves a subpoena, it reflects on all of us. It is also true that if a subpoena is issued by a committee and a court slaps it down, that decision is not limited to just the committee. It impacts all of us.

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Now there is a break that has existed for subpoenas in this body. That break has traditionally been the Executive Board. And there's a good reason to have a break and not to have a runaway standing committee or, in my view, a special committee, and that is because of the institutional nature of the power that is being exercised. So how is the Exec Board a break? Well, in the case of a standing committee, it's very clear. Our rules have been interpreted that the standing committee has to go to the Exec Board before the subpoena is issued. That's what happened in the Ebke decision. There was a subpoena that had the support of five members of the Exec Board. That's what happened. Under our new statute that we-- that we passed, if there's a lawsuit relating to the subpoena, the Chair of the Executive Board is the named party. Along with, in the case of a special coun-- or special committee, the chair of that committee. The-- the Exec Board has to pay for counsel. The Exec Board has to give the sign-off on the-- on the front end. The Exec Board even has to approve requests from the Legislative Council, from this entire body. So the idea of the Executive Board not being a break is something that I think is inconsistent with the practice. And I will address Senator Lathrop's points that he made on another time on the mike. But all of that, all of what I mentioned is true--

**LINDSTROM:** One minute.

**HILGERS:** --and it's something that's happened in the past. And whatever has happened before the Ebke decision needs to be looked at in a new light today because I got to tell you, that decision has damaged this body. That subpoena and the court case and the ruling has damaged this body. We tried our best, in that statute, to remedy the harm and it's unclear whether or not we have done so. That's never been tested. But it has damaged the body. And what I'm trying to avoid-- I'm going to come back. I'll use my three times on the mike. And I'm going to talk about the concerns that I have with doing this and elevating a special committee with powers that a standing committee currently doesn't have. And I will tell you, just to let-- let Senator Cavanaugh know, if this amendment goes down, I will bring another amendment to strip all the subpoena power from this particular LR, subpoena power I've supported from the beginning because this is of institutional concern, colleagues. If this goes without this amendment--

**LINDSTROM:** Time, Senator.

**HILGERS:** Thank you, Mr. President.

**LINDSTROM:** Thank you, Mr. Speaker. Senator Flood, you are recognized.

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**FLOOD:** Thank you, Mr. President. If Senator Hilgers wants a minute of my time to finish his thought, I'd be happy to give it to him.

**LINDSTROM:** Senator Flood, you're-- or Senator-- Speaker, you're yielded 4:47.

**HILGERS:** Thank you, Mr. President. Thank you, Senator Flood.

**FLOOD:** You got to give it back after a minute, though.

**LINDSTROM:** Oh, is that--

**LINDSTROM:** One minute [LAUGHTER].

**HILGERS:** Thank you. Thank you, Senator-- thank you, Senator Flood. If this goes-- and I'm going to talk about it. I've got my light on. I'll come back and I'll use at least four of the minutes on-- when I come back. If this passes and FA7 goes through-- does not go through, we are putting not just this particular committee, by the way, their work at risk, because the very first thing that's going to happen-- I'll talk about in a minute-- for any subpoena that's contentious at all, then someone is going to file a suit and say we didn't follow our own rules. We're going to talk about the Ebke decision. That is-- that is absolutely true. And I think we are setting a precedent for when we are all gone-- when Senator Lathrop is gone, when I'm gone, Senator Flood is gone, Senator Friesen is gone. We are setting a precedent that will allow special committees-- with no legal counsel, by the way, unless-- unless explicitly authorized, to be able to go and put this institution's power at risk. And for me, that is a line I will not cross. And that might mean, if we get to it-- I hope it doesn't. I hope this goes or my amendment will go if this doesn't--

**LINDSTROM:** Mr. Speaker, that's one minute. Senator Flood, 4:00 remaining. Speaker Hilgers, you've been given 4:00.

**HILGERS:** What's the math? How much time do I have?

**LINDSTROM:** 3:46.

**HILGERS:** OK, all right. OK. Thank you, Mr. President, I think. So here is-- so I talked about the checks and balances of the Exec Board and what happened in the Epke decision is very important. And I think it's worth reframing here and talking about it again because-- and when I come back on the mike, I'll be able to-- I want to-- I do want to address Senator Lathrop's points because I understand where Senator Lathrop is coming from and I absolutely, 100 percent get his

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perspective. And I'll come back and respond to his specific points, but I hope to put this in context. Colleagues, when the Ebke subpoena was served, there was a litigation and through that litigation, ultimately it went to the Supreme Court. But as part of the arguments that were made-- and I talked about this a little bit yesterday-- part of the arguments that were made in that litigation were things that I-- I would think would be out-- that should not be, frankly, addressed by a court. One of those arguments was well, did the Legislature, did the Referencing Committee reference the particular issue correctly to the Judiciary Committee? Could you imagine having a court ruling telling this body how we-- whether we reference something appropriately? But those are the types of arguments that were made. Now the court in some ways, I think, did us a favor. I would have preferred a complete victory. But the court mooted the case by finding that the subpoena was moot because it was after the expiration of the 105th Legislature. So the court said we're not going to get into these other issues. We're not going to get into these other issues because it doesn't matter, the subpoena is dead. Now before that court case, colleagues, there's not one person here who would have thought that. Not one person would have thought that our subpoenas would die with the course-- with the end of the session. And in fact, it's pretty easy to see why that would severely limit our power because all someone has to do is wait to the end of the session. Well, I got to tell you, that's an example of what I'm trying to avoid. In the Ebke case, we lost the ability to have our subpoenas be able to run through. We've done-- as I've said, we've done our best with the statute to try to-- to try to mitigate that, we might be successful. What happens on the next one? What happens if FA7 gets shut down and LR29 goes and the-- and the very next-- the very first subpoena that goes to court, the other side says you know what, this should have gone to the Exec Board or this should have-- it should have gone this way within the Legislature. And what if-- or what if they reraise other constitutional questions about our authority as a separate branch of government to issue these subpoenas? Those were raised in the Ebke case too.

**LINDSTROM:** One minute.

**HILGERS:** And what if the Supreme Court next time, or some other court next time decides that it wants to determine how we ought to run our business and the scope of our power? That is what I'm trying to avoid. Having the Exec Board, the board that we elect-- as Senator Flood mentioned yesterday, every one of us has representation on the Exec Board. Every caucus has two members. The Vice Chair, Chair, and Speaker are all elected from the entire body. That body doesn't



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necessarily speak for us, but it is an institutional body. It is the right body to have a final say over those subpoenas to make sure that the institution's power and authority are protected. So I'll come back on and I don't know if I've got one more time left. I'm not exactly sure who's yielded me time or how this has all worked, but I'll come back on in a second. I'll at least address Senator Lathrop's concerns and talk about how I see this going forward. Thank you, Mr. President.

**LINDSTROM:** Thank you, Mr. Speaker and Senator Flood. Senator John Cavanaugh, you are recognized.

**J. CAVANAUGH:** Thank you, Mr. President. Thank you, Speaker Hilgers and Senator Flood and Senator Lathrop, for the conversation so far. And thanks for yesterday because I read the Ebke decision after the conversation yesterday. I didn't-- I think, like many people, did not realize how at risk our subpoena power was. And I join in that concern that Senator Flood expressed and that Speaker Hilgers is expressing, is that we have to protect our power and our authority to conduct this sort of investigation and oversight. And so it's important that we get this right. And I might ask Speaker Hilger some questions if he's willing, but ultimately, my reading of this-- of our-- of the Ebke decision is that they-- they ruled-- or the holding in that was that our subpoenas expire, which means that we have to work quickly. And the LR, as written without the amendment, is designed in a way that will allow quick investigative action. By adding FA7, we're adding another layer, which it will delay the execution or issuance of these subpoenas. And our biggest enemy is time when it comes to these issues and so that's why we have to be very careful about what we do here. And I agree with Senator Lathrop about that subpoenas are not always the nuclear option. I would also point out-- I don't know if he mentioned this-- but a subpoena can also give you particularity about what it is you're asking, who you're asking it of, what it is you want. And so it can be a helpful tool, which is why some people probably ask for it. But Speaker Hilgers, I guess my question that I would like to ask you if you would yield for a question--

**LINDSTROM:** Speaker Hilgers, would you yield, please?

**HILGERS:** Of course.

**J. CAVANAUGH:** So I agree with you that we have to do this right. And I think that we need to spend a little bit more time, perhaps after this process, to figure out some clarifying action in our rules and in statute. But my reading of this is that it would allow for this grant of authority where you would make a particular grant to a particular committee to do a particular type of investigation and issue

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particular types of subpoenas. And so that is the prior authorization of the subpoenas that's contemplated in the statute and contemplated in the rules. Is that a misreading of that?

**HILGERS:** When you say "it" in that, what are you referring to?

**J. CAVANAUGH:** A misreading of the rules and the statute that-- that-- you're asking, you're saying that your interpretation is there has to be a prior authorization of-- of a subpoena.

**HILGERS:** That's correct.

**J. CAVANAUGH:** OK. Would you disagree, then, that by giving a committee a narrow subpoena grant of authority, that is not a prior authorization?

**HILGERS:** May I elaborate on the-- on my answer?

**J. CAVANAUGH:** I-- I--

**HILGERS:** To the extent you say prior authorization, I just want to make sure I'm being very precise and clear. May I?

**J. CAVANAUGH:** Please.

**HILGERS:** Thank you, Senator Cavanaugh. So-- and I'm going to talk rules and then I'm going to talk statute. The rules, I believe, have been interpreted to mean that a prior authorization means before the subpoena is issued that it has to be-- has to be approved by the Executive Board. I would argue, looking at it sort of de novo, that maybe that interpretation hasn't been tightly, tightly hewed to the actual language itself. But nevertheless, that's how it's been interpreted, at least with standing committees. That's why the Ebke decision-- that's where the Ebke subpoena went that-- went that way. Now the rule does not distinguish between standing and-- and special. So under the rules, in my view, they would apply to both. Now in the statute, which has been totally redrafted, largely redraft-- redrafted because of LB641 that I brought last year, that was focused on-- was not focused on--

**LINDSTROM:** One minute.

**HILGERS:** --making a distinction between-- and we can come back to this-- I appreciate you letting me use your time. That was not focused on the special committee's power. I would argue that to take a special committee and treat it differently from the Leg Council and differently from a standing committee, it would not be done by

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implication, it would have been done explicitly and I absolutely would not have supported that. So it's a longer answer to your question, in part because we don't have a lot of data points and the rules and the precedent and the statute are sort of a little-- it's a little bit of a mess. I can-- I agree. So I'll give you some time back. I apologize.

**J. CAVANAUGH:** I appreciate the answer. And I guess my-- my point is I don't disagree with your point, but that we need to contemplate a scenario under which the-- the Executive Committee would grant authority in the way that it is granted in this LR. I don't think-- I don't agree with you that that would be an inherently wrong thing to do, but I think we need to be clear about it and we need to make sure. I do think there are instances where that would be appropriate. Whether this is one or not is a different question, but I don't think you should--

**LINDSTROM:** Time, senators.

**J. CAVANAUGH:** Thank you.

**LINDSTROM:** Thank you, Senators Cavanaugh and Speaker Hilgers. Senator Vargas, you are now recognized.

**VARGAS:** Thank you very much. I think I'm, other than Hughes, one of the few people talking on this that is not a lawyer. And I-- I am a teacher. I did have this conversation with Dorn. That was when I started my-- my profession here. But as a member of the Executive Board-- and I had this conversation off the mike with-- with Chairman Hughes. You know, I have-- I have some concerns. And I understand the original intent, but my concerns are-- are largely with what we're really trying to accomplish with LR29. And Senator Cavanaugh-- John Cavanaugh just said this. Time is of the essence here. We are not trying to micromanage. We are trying to figure out what happened and how to do something different. And the only way to do that is by inherently have-- we use this word "power"-- by inherently being able to do an investigation with the right process. My concern is that if we are putting in place a structure that has another step, I'm not sure or certain that the existing Executive Board will be moving and accepting on the recommendations of the committee and that we may slow down the process. Now that is purely conjecture and I said that to-- to Senator Hughes, but this is really-- my concern is that it's not going to happen based off the fact that not everybody is in complete agreement that there's been wrongdoings or that there's something to look for. And if we have to spend time, an investigative committee, convincing the Executive Board that it is necessary to do XYZ, that we're just creating another step and removing the power, the authority

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to do the investigation in the first place. We're not trying to micromanage. We're trying to figure out what went wrong so we don't have to do it again next time, that what went wrong is millions of dollars and largely affecting the eastern service area that represents 17-- let's say, at least-- state senators and not the rest. I also look at the committee and it's fairly balanced. But if there has to be an additional step, I'm really concerned that we could be elongating and creating an undue process. And I understand that this is important, from both listening to Senator Hilgers and listening to Senator Hughes and-- and listening to Senator Lathrop, and that we got to get this right. But I also want to make sure we get right and we're not taking away the authority, the authority that is written into this to actually have some power. Because if it has no power, then I'm really concerned. What are we doing with the committee? And there are agencies listening to this. If we can't compel somebody to come and testify and bring documents in a speedy process, we are actually undermining the power that is inherent to the Legislature and to the Executive Board. And I do call on the rest of my committee members in Executive Board. My hope is that any-- if this were to go, that we respect the decisions and recommendations-- and I've had this conversation with Senator Hilgers-- within reason-- I know that's the-- that's a broad word-- respect the recommendations of the LR committee because if we don't, then there's-- there's no power influence of the actual investigating committee. I know I will support what they are putting and asking for because it's a pretty broad group of--

**LINDSTROM:** One minute.

**VARGAS:** --positions from different committees. But if they have to jump through another hoop through us, I'm going to take them for their word and support them because we're putting in place a very broad, diverse group of spots for senators to then join this committee. I also want to make it clear, and it's just for the record, that in this LR, we are providing the authority for the committee to hire outside legal counsel-- consultants, investigators-- as required by the committee, with the authorization of the Executive Board. My other hope is that the Executive Board-- and I will do this-- support any of the resources they would need to be able to do a sound job. I trust that my colleagues that get appointed to this committee will do a pragmatic, reasonable request of what they need to fulfill this investigation. So--

**LINDSTROM:** Time, Senator.

**VARGAS:** Thank you.

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**LINDSTROM:** Thank you. Senator Vargas. Senator Lathrop, you are now recognized.

**LATHROP:** Thank you, colleagues. Good afternoon once again. I do want to visit a little bit about this amendment. I want to clarify or-- or reiterate that with this amendment, this committee can't hold a hearing until the Exec Board gives them the OK. Think about that. Literally, we put a special investigative committee together and they can't even have a hearing without going back to the Exec Board. It's a flawed amendment. It's problematic from a practical point of view. But I want to talk about the Ebke case because the Speaker has spoken about the Ebke decision like it means something. The Ebke decision was a subpoena issued by the Judiciary Committee. It was not a special investigative committee. It was not a subpoena issued pursuant to a resolution like this one would be. And the court got done looking. They went through the facts of the case and the arguments offered by the Attorney General and said we're not going to make a decision here on any of these arguments because, by the way, Laura Ebke has been defeated. She's gone. It's a different Legislature, the case is moot. Nothing was decided in that case. Nothing was decided in that case except that if you want to get to the Supreme Court on one of these issues, you better do it before the Legislature turns over. But after this was done last year, Speaker Hilgers got LB681 passed, OK? LB681, you all voted for it. I approved different things, the Speaker and I worked on this a little bit. He certainly carried the ball on it. It's right in this statute that the Speaker passed last year. There's nothing-- there's nothing mysterious about this. We're not putting the integrity of this institution on the line when we issue a subpoena. It's going to be your colleagues who are in the middle of an investigation and decide that they need to see something or talk to somebody, that's it. Twenty-dollar witness fee and we got them in the-- in the hearing room and they bring the documents we need to see. And this process is all provided for in the bill that this commit-- this Legislature passed last year. This resolution provides for the authority of this committee to issue a subpoena. That committee will need to comply with the rules of the Legislature, which require two things: a vote of the committee after the committee has determined that they can't secure the witness or the information by other means. OK? It's not going to be raining subpoenas all over the Capitol. It is a process and it works and it's authorized. And I got to tell you, anybody on the Exec Board would know I've been an advocate for this resolution because, as Senator Matt Hansen said yesterday, this is a mess that calls for us to investigate, right? Wherever your standard is, this clearly meets the test. This resolution was massaged, the language was carefully reviewed, and the authority to issue a subpoena

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was provided for in the resolution when it was passed from the Exec Board. So this amendment, this idea that we're going to make this committee stop and ask for permission to have a hearing and ask for permission from the Exec Board, ask for permission from the Exec Board to issue a subpoena, is an afterthought. It's an afterthought. It's not like we just rushed this thing out of the Exec Board. The language was carefully crafted and the authority to issue--

**LINDSTROM:** One minute.

**LATHROP:** --that subpoena was there. Let me just say this about this committee. We don't know who's going to serve on it, although we know that it'll be two people from Judiciary and two people from the Health and two people from Government and another-- and another person and some [INAUDIBLE]. These people are perfectly capable of looking out for the integrity of the institution. They don't need to go back to the-- the nine people or whatever it is on Exec Board to get permission to issue a subpoena. They're-- they will be thoughtful people in the middle of trying to search for the truth. That's what it'll be. And if-- if the Speaker makes good on his threat to take the subpoena out of this resolution, this will be worthless. It will be worthless because we've already seen. Even when the CEO appeared in front of the Exec Board, she wasn't truthful. I said did you know that-- that they weren't going to be able to perform?

**LINDSTROM:** Time, Senator.

**LATHROP:** No, we had no idea before the-- did you say time?

**LINDSTROM:** Time, Senator. Thank you, Senator Lathrop. Senator Dorn, you are recognized.

**DORN:** Thank you, Mr Speaker. Would Senator Hughes yield to a question?

**LINDSTROM:** Senator Hughes, would you yield?

**HUGHES:** Of course.

**DORN:** Senator Hughes, part of what the discussion has been here is, I think a little bit is, of time might be of the essence. We know when we're in session, you can have the Exec Board meet, make a decision on some of these things. What happens when we are not in session and this committee would decide they wanted a subpoena? How long would it take and what would be the process?

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**HUGHES:** During my six years on the Executive Board, we have had numerous meetings throughout the interim-- during the summer, during the fall, whenever. It depends on how critical the subject matter is, how quickly we got together. If-- if it was critical that a subpoena be issued, if, you know, for whatever reason, I think we could do it probably remotely or if opportunity provided that we could come together, as Chairman, I would do my best to work with the Chairman of whatever committee it was, a standing committee or a special committee, to make sure that we got together as quickly as possible to make sure we had the facts to make the best decision.

**DORN:** Would there be a minimum number of people on the committee that you would have to have to-- I call it-- hold a meeting or vote on that meeting about a subpoena?

**HUGHES:** It is-- it is a nine-member committee, so it would have to have five people to vote in the affirmative to do anything. So I would, you know, certainly try to get as many people, committee members, to a meeting as possible. But as you know, trying to get individuals together, match schedules, sometimes that does take a little bit of time. But I would do my best to get people together as quickly as possible and accommodate the members of my committee to try and accomplish the task as soon as possible.

**DORN:** Thank-- thank you. Thank you very much for those answers. I will yield the rest of my time to Speaker Hilgers.

**LINDSTROM:** Speaker Hilgers, 2:38.

**HILGERS:** Thank you, Mr. President. Thank you, Senator Dorn. This is probably the last time I get the chance on the-- to talk on the mike today. I'll tell you a few things. I want to respond to some of the arguments. The first is maybe-- and these are my words, not Senator Lathrop's-- but I want to make sure no one minimizes the Ebke decision. It is absolutely true that they didn't reach the internal workings of this-- of this body. It is equally true that that ruling damaged this body. And it is as-- it is as true as those two things that if we go in without having our ducks in a row, shame on us for being in a position where we could have this institution's power being minimized. I want to be clear. It's not a threat. I'm not threatening anything. This isn't about LR29 for me. Senator Mc-- Senator Cavanaugh knows that I have been supportive of subpoena power. I've been supportive of this committee from the beginning. We've had questions about how to work through the amendment, which we did. But this is an institutional concern. Senator Lathrop is right. If the subpoena power is stripped, this committee on its own won't have the ability to

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subpoena. But in my view, what we lose from that-- which is something significant, there's no doubt about it-- we avoid what I view is a precedent that puts this body at risk down the road from something far more terrible, which is a permanent reduction in our authority and power. Senator Lathrop brought up a few points. He said well, subpoenas aren't the nuclear option. Well, many of them aren't, but there's some that certainly are. And the idea of giving a special committee with no-- that-- which doesn't necessarily even have legal counsel, doesn't necessarily even-- well, even have a lawyer on that committee--

**LINDSTROM:** One minute.

**HILGERS:** --the power to put this body's institutional power at risk, I think is a-- is a mistake. Senator Lathrop also points out and said hey, I did a couple of these. They went well. Well-- and there's no doubt. I think he-- I think his experience is one that I leaned on when we were working through LB681. There's probably maybe five-- three senators in this body today who have ever actually personally served a subpoena-- maybe five, I don't know-- Senator Wayne, Senator Lathrop, and myself. There's no guarantee we'll ever have anyone that will have, when the special committee comes up, that will even have a member of this body who have had-- will have had any experience. So the idea that it worked once or twice before, no argument there. Pre-Ebke, without the other side looking for different angles to fight our subpoenas, especially between interbranch fights, I think only carries so much weight. The concern here is for what's going to happen in three years or five years or ten years and the possibility of having a runaway special--

**LINDSTROM:** Time.

**HILGERS:** --committee. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senators Dorn, Hughes, and Speaker Hilgers. Senator Wishart, you are now recognized.

**WISHART:** Thank you, Mr. President. Colleagues, today I'm still undecided on FA7. I am listening to this very good debate today and discussion. I do have some questions that I'd like to ask a few of the senators. First off, Senator Lathrop, if you would yield to a question?

**LINDSTROM:** Senator Lathrop, would you yield, please?

**LATHROP:** I'd be happy to.



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**WISHART:** So since you have worked on some of these special committees before, can you give me an estimate on how many potential subpoenas this committee could request?

**LATHROP:** It's really hard to tell because if you were to request copies of documents related to communications back and forth with Saint Francis and those documents came in, you read through them, and there's six people in there you think might know something that would help with the investigation, then that would lead to six more. And-- and all the subpoena is doing is just saying this is the date you're going to appear and answer questions.

**WISHART:** So what I'm hearing is that it's not like it could be just one. There is a high likelihood that there would be more than one subpoena that would be requested from a committee.

**LATHROP:** I certainly expect that this committee would-- would want to hear from more than one person and want to have more than one batch of documents.

**WISHART:** OK. Senator Hughes, would you yield to a question?

**LINDSTROM:** Senator Hughes, would you yield, please?

**HUGHES:** Of course.

**WISHART:** Thank you, Senator. So as Chairman of the Executive Committee, one of the questions I have is, this special committee is going to be deeply involved in looking at the facts around this specific issue. How will the Executive Board be able to catch up with the information they need to make an educated decision on whether a subpoena is necessary or not?

**HUGHES:** The-- my "envision" would be the Chairman of the committee-- special committee-- would come to the Executive Board and make their case, just like we do in any other hearing or whatever when we make a decision. We gather the facts and make a decision.

**WISHART:** So every time that-- say what Senator Lathrop was just discussion-- discussing happens and we make one subpoena, we get some facts, and then the committee needs to make a-- another. Every time, they would need to-- to meet with the Executive Committee to fill them in on that decision making?

**HUGHES:** I don't know that it would be every time. I think if-- the legal counsel for the special investigative committee would be able to

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guide that committee and bundle those things. So if they said well, we need to have documentation from employee A and we need to have document-- and this is why and we need to have documentation from employee B and this is why and we need to have documentation from outside vendor C, you know, the Executive Board would make those-- would listen to those reasons. And I think it's fairly obvious that, you know, those things probably would need to be issued, but we just can't have blanket subpoenas that we're going to-- we're going to subpoena everybody, we're going to subpoena every piece of information, those type of things. That's what we're trying to prevent.

**WISHART:** Thank you. I do have a question for Senator Hilgers, but I'll wait till he's done with the conversation. And then I-- so I'll move on to asking Senator Hughes-- you another question if you would yield?

**HUGHES:** Yeah.

**WISHART:** What would be the scenario that you can imagine-- because I imagine when you're bringing this, you've thought this through-- where you would say no to an--

**LINDSTROM:** One minute.

**WISHART:** --to this committee request for a subpoena?

**HUGHES:** Senator Wishart, it's very dangerous to deal in hypotheticals because we are dealing-- we want to be very precise in our discussions with this. So I-- you know, I can't deal in hypotheticals. I'm sorry.

**WISHART:** OK, that's fine. Well, the one last question I will ask you is-- you know, I'm going to wait until my next time on the mike and I'll yield my time to Senator Cavanaugh since she asked.

**LINDSTROM:** Senator Cavanaugh, 30 seconds.

**M. CAVANAUGH:** Thank you. Thank you, everyone. We're kind of coming to the end and I appreciate everyone's conversation today around this and I appreciate everyone's attention to this. I know that we're going to, at 5:00 p.m., hit pause on this for today and we'll bring it back another day. And I intend to continue working with all of the senators that have been speaking on this very important issue today. So I just wanted to say thank you for your continued attention to this and I know that we will get this to a place where we can all agree and move forward.

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**LINDSTROM:** Time, Senator.

**LINDSTROM:** Thank you.

**LINDSTROM:** Thank you, Senators Cavanaugh, Wishart, and Hughes. Senator Hughes, you are now recognized.

**HUGHES:** Thank you, Mr. President. I appreciate Senator Lathrop pointing out the fact that we did make an error in the meeting, being able to call a meeting of this special committee. So I have visited with Senator Cavanaugh and we will fix that before we come back to this LR on Monday or whatever day we do come back to that. And with that, I would yield Sen-- yield the balance of my time to Senator Hilgers.

**LINDSTROM:** Speaker Hilgers, 4:32.

**HILGERS:** Thank you, Mr. President. And thank you, Senator Hughes. As a reminder, colleagues, this is an LR, so there will be no Select File. So one of the reasons we're going to quit at 5:00 p.m. today is to enable us to work through this language and get it right. Getting it right is critically important. Let me just say a couple of points about what will happen if FA7 fails, my amendment that will come beyond-- behind that fails, and LR29 goes forward. The first is that it immediately weakens the LR29 committee because if I'm the other side and I get a subpoena and I don't like it and I want to fight it, it gets a little too close to comfort, well, I'm going to take you to court. One, I can stretch it out a little ways. We've tightened that with LB681. But number two, there's already some precedent, not court precedent, of other sides going into our internal business when they fight out these court cases. And if I'm them, I'm going to say you know what? It wasn't approved by the Executive Board. Prior practice has been to have subpoenas approved by the Executive Board, at least with standing committees, should've been approved. And what happens if a court rules against us? But even if it doesn't get to that point, we weaken our authority. The strength of a subpoena, as Senator Lathrop alluded to, the strength-- it's pieced through strength. If you can enforce your subpoena, you often don't need one because you know you can go to court. If there's a question as to whether you can enforce your subpoena, you have weakened yourself out of the gates. The first thing that will happen is that this-- the LR29 committee will be weakened. If this passes, it will be strengthened. It will take an issue off the table. The second thing it will do is it will, for the first time, in my opinion, elevate a special committee over our standing committees. Our standing committees, some of them have been around for decades. They've got lawyers, they've got institutional

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knowledge. Those standing committees have to go to the Executive Board. A special committee can be made up of just some individuals elected by the Exec Board. They don't even have to-- the chairs of the-- those committees tend to not have to be voted on by the floor. Those committees don't have to have lawyers on them. They don't have to have anyone who has any experience with a subpoena on them. And unlike a standing committee, they will have-- they will not have the guardrails. And so what will happen if this passes? I don't know if I would ever vote to provide a special committee with subpoena power ever again. Institutionally, you cannot-- you cannot have a committee operating without guardrails when in recent past has told us that a Supreme Court will limit our power. It will also create odd results. I'll just give you one. One is that if someone sues on the subpoena, the specific subpoena, the party in the subpoena, as I mentioned, is going to be the Exec Board Chair. So the same Exec Board Chair that we're saying well, the Exec Board should not sign off on the specific subpoena, but when it comes up to the time to enforce the subpoena, the Exec Board Chair is going to have-- be a party. So when you're a party, by the way, parties have the ability to settle matters. Parties have an ability to dictate strategy on matters. So on the one hand, you're saying we don't want the Exec Board to sign off on our specific subpoena, but on the other hand, the statute says if there's a fight, the Exec Board Chair has got to come in and try to defend your work. Now tell me how that makes any more sense, any--

**LINDSTROM:** One minute.

**HILGERS:** --any sense at all? Thank you, Mr. President. It just doesn't. Last couple of things. Time is of the essence. I agree with Senator Vargas that the clock ticks on these things, especially after the Ebke decision. But I will submit, colleagues, that a rush to get a subpoena out is far different from getting the subpoena complied with. What matters is not when the subpoena gets issued. It's when the documents come in or the witness comes in. And if we say well, we don't have to go through the Exec Board, on the one hand, meaning we can get our subpoenas out, but on the other, weaken our ability to enforce that subpoena, what exactly have we gained? We've gotten-- we've gained the ability to serve the subpoena. We have gotten nothing in return for the subpoena. So time is of the essence and I would submit the way to make sure we get our documents is to come in very strong under our process and procedure and limit the angles of attack when these subpoenas get served. That makes it far more likely that what the important thing happens happens, which is that we get a response--

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**LINDSTROM:** Time, Speaker Hilgers.

**HILGERS:** --to the subpoena. Thank you, Mr. President.

**LINDSTROM:** Thank you. Senator Kolterman, you are now recognized.

**KOLTERMAN:** Thank you, Mr. President. I know we're headed down the homestretch here and I don't want to lose focus on the main issue in front of us here. LR29, it's an oversight committee. We have got to have the oversight committee for many, many reasons. We had a really good discussion yesterday. I think this has been a really good discussion today. The challenge that I have with what's being talked about today is this. We have probably ten attorneys in the body. And I-- and I don't want to minimize anybody's intelligence, but when it comes to the legal aspects of this, there's probably 35 of us that are wondering which way should we go because we have respect for all the people that have been talking. So as we go away tonight, we're not going to accomplish anything yet today, I don't believe. I want you to think about this. As members-- as members of this body, we have to be together on this issue. Whether it's handled by the Executive Committee or it's handled by the special committee, we have to have each others' backs because if we don't have each other's backs as the legislative branch, nobody's going to back us up. So I would hope that, over the next 24 to 48 hours, whoever is going to put this together does it with that in mind. With that, Senator Flood has asked for the rest of my time and I'd be glad to grant that to him. Thank you very much.

**LINDSTROM:** Senator Flood, 3:15.

**FLOOD:** Thank you, Mr. President. And thank you, Senator Kolterman. At the end of the day, I think that we are best suited to let the Exec Board have the authority over this process and recognize that we've got some work to do on a statute. We've got to look at our rules and ultimately, like, we are in this together and the goal is not a subpoena as much as it is the truth. And my guess is we're not going to be using a subpoena on a political subdivision or the state as much as we would potentially use it against this Saint Francis outfit, which is a Kansas-based health and human services operator-- vendor of ours-- that, in my opinion, is at the root of the problem. And so I-- you know, I think that we have to get from point A to point B. I don't like this idea that the Legislature works for the Exec Board. I mean, all the power starts here and it filters down. The Exec Board works for us, they represent us. The leadership on the Exec Board has been chosen by us. Let's trust them to be a partner with the committee. The last thing you'd want to do is be appointed to this committee and have

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somebody not supporting you. And then we've got-- we're in a jam. And so I haven't heard anything today that suggests that people aren't going to support this special committee. And there's a sense of trust from all of us here to the leadership of the Legislature that says hey, we want this investigative committee. We might have to use subpoenas. If we need it, we're certain-- they'll-- they'll ask for it and it won't be unreasonably withheld if people are being reasonable on the special committee. And so I think we got to let the process work. That said, I want to be very clear that I can see a day where we'd want a special committee that would have these powers. And I think that authority starts and ends on this floor. By virtue of the fact that we're having this very debate to decide, tells you that this body will decide who has subpoena power. And I'm not worried about the Supreme Court taking an inherent right away from us because they can't. They can't touch us if we do things right.

**LINDSTROM:** One--

**FLOOD:** And so in this case, I think--

**LINDSTROM:** One minute.

**FLOOD:** --it's entirely appropriate to have the Exec Board be the check here, given the set of circumstances we have. And I'd be more interested in hearing from members of the Exec Board because I think they understand that this is something that we care about collectively as a legislature and that they'll exercise good judgment. And if they don't, there are a ton of remedies that we can undertake. But let's not-- let's not lose sight of the fact the-- the-- the outfit that's most likely, in my opinion, to get a subpoena is the one that is the least accountable to us. And it's the Saint Francis outfit out of Kansas who we're still in business with after what we see as some very troubling signs. You know, I want to know if there was any fraud involved. I want to know what they knew when they contracted with us. That's-- I don't think that's too much to ask. So I thank Senator Kolterman, I thank Speaker Hilgers. I recognize where Senator Lathrop is coming from. He has the experience. He knows that it works. I don't doubt that. I--

**LINDSTROM:** Time, Senator.

**FLOOD:** Thank you.

**LINDSTROM:** Thank you, Senators Kolterman and Flood. Mr. Clerk, for items.

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**ASSISTANT CLERK:** Thank you, Mr. President. Name adds: Senator Hunt would add her name to LB156; Senator Machaela Cavanaugh to LB639. Finally, a priority motion. Senator DeBoer moved to adjourn until Thursday, March 25, 2021, at 9:00 a.m.

**LINDSTROM:** Thank you, Mr. Clerk. The motion before us is to adjourn. All those in favor say aye. All those opposed say nay. We are adjourned.